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7 IN THE SUPERIOR COURT OF ARIZONA

8 IN AND FOR THE COUNTY OF MARICOPA

9 THOMAS J. GUSICH, an individual,

10 Plaintiff,

11 vs.

12
13 SUN CITY GRAND COMMUNITY
ASSOCIATION, INC., an Arizona
14 corporation,

15 Defendant.

Case No. CV2025-002634

FIRST AMENDED COMPLAINT

16
17 Plaintiff Thomas J. Gusich (“Gusich”) alleges:

18 **PARTIES AND JURISDICTION**

19 1. Gusich, a resident of Maricopa County, Arizona, lives and owns property
20 in Sun City Grand, a planned community as that term is defined in A.R.S. § 33-1802,
21 in Surprise, Arizona, and is a Member of the Defendant Sun City Grand Community
22 Association, Inc. (the “Association”).

23 2. The Association is an Arizona nonprofit corporation responsible for
24 owning, managing, and operating common areas and facilities of Sun City Grand.
25 The affairs of the Association are managed by its Board of Directors (the “Board”).

26 3. Jurisdiction and venue are proper in this Court.

1 12. The Majority took issue with Gusich’s stated position, and, upon
2 information and belief, immediately began attempts to implement a code of conduct
3 that would allow the Majority to police, discipline, and publicly criticize the
4 activities, speech, and conduct of other directors.

5 13. On April 11, 2024, the first official meeting of the new Board, the Board
6 purportedly adopted Grand Standards of Behavior for Board Directors (the “Grand
7 Standards”). A copy of the Grand Standards is attached as Exhibit 3.

8 14. The Grand Standards were never presented to the Association members
9 for review or adoption, though they restrict members' participation in the
10 Association's governance.

11 15. The Declaration authorizes the Board to adopt rules governing the
12 Property, but not the speech and decisions of Board members and directors.

13 16. Upon information and belief, the Majority adopted the Grand Standards
14 to attempt to sideline and silence Gusich, justify publicly disparaging Gusich to the
15 entire membership, and falsely accuse him of violating the governing documents for
16 the Association.

17 17. The Grand Standards impose vague and subjective requirements that
18 Directors will “act in the best interests of the Association as a whole,” “strive to do
19 what is best for the Association as a whole,” “act in good faith and in the best interest
20 of the Association.” Although Gusich has always acted in the best interests of the
21 Association in the performance of his duties as Director, the Grand Standards allow
22 a majority (or, the Majority) to punish Gusich by falsely claiming that he is not acting
23 “in the best interests of the Association” by defining that vague term as agreement
24 with them or a requirement not to criticize their decisions. *See* Exhibit 3.

25 18. The Grand Standards further impose a gag order and compulsory
26 cheerleading on minority directors. The Grand Standards expressly prohibit

1 Directors from making critical statements that might “degrade decisions of the
2 majority” and compel minority directors to “support the decisions of the majority of
3 the Board regardless of the position the Director may have taken at the time of the
4 vote.” *See* Exhibit 3.

5 19. The Grand Standards further impose vague and entirely subjective
6 “civility” requirements on Directors to, among other things, “conduct themselves at
7 all times with civility and respect,” to keep their language and conduct “professional,”
8 and to refrain from “harassing or disparaging behavior or language against any other
9 Director, member, resident, vendor, Association management, and Association
10 employee.” The Grand Standards, however, do not define “civility,” “respect,”
11 “professional,” or “harassing or disparaging behavior or language,” and instead invite
12 definition on a subjective, *ad hoc* basis by those seeking to enforce the Grand
13 Standards against a Director. *See* Exhibit 3.

14 20. The Grand Standards provide violations of the document are subject to
15 a four-step incremental enforcement policy requiring: (step one) counseling in an
16 executive session, (step two) public rebuke in an open meeting, (step three) a written
17 letter of censure, and (step four) the Board choosing to pursue either removal of the
18 minority member or a “breach of fiduciary duty lawsuit.” The Grand Standards,
19 however, do not state how the four-step enforcement policy is initiated or by whom.
20 In effect, the Grand Standards allow a majority of the Board to punish and publicly
21 berate minority members for not supporting its decisions or otherwise making
22 statements or taking positions that the majority believes is not in the best interest
23 of the Association. *See* Exhibit 3.

24 21. The Grand Standards compel the Board to initiate the enforcement
25 process against any Director “who is shown to be in violation of the governing
26 documents.” However, the Grand Standards do not describe how, when, or by whom

1 a targeted Director will be “shown to be in violation of the governing documents or
2 any written policy or resolution adopted by the Board.” Nor do they identify the
3 process, if any, the Board follows in finding a director, like Gusich, to be in violation
4 necessitating the Grand Standards’ four-step punishment process that leads to
5 public rebuke and censure, removal, or even a lawsuit for breach of fiduciary duty.
6 *See* Exhibit 3.

7 22. In effect, the Grand Standards allow the Board to enforce violations of
8 the Grand Standards but dispense with any of the usual and reasonable hallmarks
9 of due process or even proof. The Grand Standards further allow the decision as to
10 whether a director, like Gusich, has been “shown to be in violation” to be made in
11 secret by a majority before the enforcement policy is initiated to compile the “written
12 list of the behaviors the Director is engaging in.”

13 23. The Grand Standards violate Arizona statutes that place duties on
14 Board directors and members to critically analyze corporate governance, decisions,
15 and issues and disagree as a process to act in the best interests of the Association.
16 “Notice to all directors is required because when a number of directors are elected to
17 manage the affairs of the corporation, it is contemplated that the corporation shall
18 have the benefit of the judgment, counsel and influence of all of those directors.”
19 *McNally v. Sun Lakes Homeowners Ass'n #1, Inc.*, 241 Ariz. 1, 4 ¶16 (App. 2016)
20 (quoting 2 William Meade Fletcher et al., *Fletcher Cyclopedia of Law of Corporations*
21 § 406 (perm. Ed., rev. vol. 2014)); A.R.S. §§ 10-3830; -3801.

22 24. Shortly after he was elected, the Majority accused Gusich of violating
23 the Grand Standards as a director. Under the pretense of following the Grand
24 Standards’ enforcement policy, the Majority rebuked Gusich at one or more executive
25 sessions and then held an open board meeting in which it continued to disparage,
26 defame, and paint him in a false light. The Majority then began sending a series of

1 email blasts to members of the community, publicly detailing their grievances and
2 complaints (in express violation of the same Grand Standards they were purportedly
3 enforcing) and falsely reporting Gusich to be in violation of the Association’s
4 governing documents.

5 25. Gusich was not in violation of any valid or enforceable provision of the
6 governing documents. Although the Majority has sent out numerous updates and
7 referenced “the issues” with Gusich, the Majority has not followed the Grand
8 Standards’ enforcement policy. Although the Majority has proceeded ahead into
9 steps two and beyond, Gusich has not been provided with a written list of behaviors
10 alleged to have harmed the Association.

11 26. After a series of meetings on September 11, 2024, the Majority declared
12 Gusich to be unrepentant and held an open board meeting in front of hundreds of
13 homeowners under the pretense of escalating its enforcement of the Grand
14 Standards to the second step for the unproven and unstated violations of the Grand
15 Standards.

16 27. Upon further information and belief, the Majority has directly or
17 indirectly threatened Directors who are unwilling or disinclined to participate in the
18 campaign against Gusich.

19 28. In the time since the September 11, 2024, meetings, director Ben Serns
20 approached Gusich and apologized for the Majority’s handling of the disciplinary
21 process and further expressed that he should never have thrown his official support
22 in with the Majority.¹

23
24
25

26 ¹ The Majority has since declared Serns to be in violation of the Grand Standards and has begun undertaking enforcement action. *See* ¶ 30 below.

1 29. On October 31, 2024, the Board held an open meeting to further publicize
2 its grievances against Gusich and give the members of the community an
3 opportunity to provide feedback, thoughts, and concerns on the public record.

4 30. Upon information and belief, the Majority provided each Board member
5 with a script to read during the meeting to falsely portray the rest of the Board as
6 united against Gusich. The façade of the united front fell when Serns indicated he
7 was forced to read a script, did not agree with the Majority’s position, and only
8 complied with the wishes of the Majority in hopes of ending their campaign against
9 Gusich.

10 31. Gusich then delivered a speech in response to the scripted, but
11 intentionally vague, accusations. The speech was met with applause and cheers from
12 the audience, a reaction the Majority announced to be “disrespectful.”

13 32. The Majority followed the meeting with additional email blasts about
14 Gusich, continuing to disparage him and paint him in a false light. Upon information
15 and belief, the Majority disclosed information discussed in confidential Board
16 meetings and otherwise disparaged Gusich in clear violation of the same Grand
17 Standards it is seeking to enforce against Gusich. Not surprisingly, the Majority has
18 not policed their own violations of the Grand Standards with the same vigor, or even
19 at all. *See* Exhibits 4 & 8.

20 33. By the Grand Standards’ design, only minority members can be found in
21 violation of the Grand Standards by the majority; it is only a violation, in other
22 words, if a majority wants to pursue enforcement.

23 34. On or around January 13, 2025, a member of the Majority published a
24 post on the Nextdoor app, calling for Gusich’s recall and providing the email address
25 recalltomgusich@gmail.com for members of the community to contact to demonstrate
26 support for the recall vote. No petition was attached to the post and the posting did

1 not inform anyone that responding to the email would be treated as an affirmative
2 vote in favor of recalling Plaintiff. *See* Exhibit 4.

3 35. Upon information and belief, that tactic was designed to trick members
4 into sending emails that would be treated as a signature in favor of recalling Plaintiff
5 from his elected position. The Association has treated those emails as alleged
6 signatures to a petition for the recall of Plaintiff. *See* Exhibits 5-7.

7 36. Around this time, upon information and belief, the Majority also created
8 a website with the url <https://recalltomgusichnow.com>. The website has not yet been
9 launched, though it does have an intake form labeled “Contact Us”. The form
10 requires an individual to fill out a field with their email address and also provides
11 optional fields where an individual can fill out their name and their message to the
12 Association. No Petition was included on that website and no statements warned
13 viewers that emailing for information would be treated as a signature on a recall
14 petition.

15 37. Community members who email or fill out the information on the
16 website receive the same message regardless of the substance in their initial
17 communication. The message indicated that the Board had received the
18 communication and entered the email address as a signature on the petition. *See*
19 Exhibits 5-7.

20 38. Though Defendant, or its representatives, tricked members into sending
21 emails without seeing a Petition, and with no intent to support a Petition, Defendant
22 has, on information and belief, counted each email as instead a signature to a recall
23 petition to claim enough signatures for either a recall or recall election. Attached at
24 Exhibits 5-7 are messages from one of the members tricked by this process. This
25 violates Arizona statute, which requires signatures to a Petition, in support of the
26 recall of a Board director such as Plaintiff.

1 39. On January 16, 2025, Rene Mitchell and the Defendant's counsel refused
2 to allow Gusich to participate in the closed Board meeting, even though Plaintiff's
3 counsel authorized Defendant's counsel to speak with Gusich on matters unrelated
4 to the ongoing dispute between Gusich and the Majority.

5 40. Upon information and belief, none of the topics for the executive meeting
6 concerned the accusations regarding Gusich. Nevertheless, the Majority, by and
7 through their attorney, used the fact that Gusich had retained counsel in response
8 to the accusations against him as a pretext for excluding him from an executive
9 meeting he had every right to attend. *See* Exhibit 12.

10 41. Upon information and belief, the Majority actively excluded Gusich from
11 the meeting to prevent him from partaking in the vote to initiate the disciplinary
12 process against Serns.

13 42. In doing so, the Majority has directly infringed on Gusich's right to vote
14 on the matter, and to otherwise discharge his fiduciary duties as a Director.

15 43. Upon information and belief, the Majority has refused to allow Gusich to
16 participate in executive sessions, significantly harming his ability to perform his
17 duties as a director, as a means of enforcing the charges against him and in
18 retaliation for his decision to retain counsel to use in defense of the frivolous
19 accusations made against him.

20 44. Gusich has asked the Majority to: (i) allow him to participate in Board
21 meetings, (ii) stop disseminating community email blasts intended to villainize him,
22 and (iii) to indemnify him pursuant to the Association's Bylaws. The Majority has
23 refused each of these requests.

24 45. On February 8, 2025, Gusich was excluded from another hastily
25 scheduled executive session. At this session, the Majority represented to other Board
26

1 Members that they had received the minimum number of signatures on a petition
2 for Gusich's recall.

3 46. Gusich now faces a recall election even though, upon information and
4 belief, the Association has failed in receiving the requisite number of legally
5 sufficient signatures.

6 47. Community members have until February 21, 2025, to vote virtually,
7 and they will have the opportunity to vote in person at an open meeting on February
8 24, 2025. *See Exhibits 9-11.*

9 48. The Majority has taken, and continues to take, enforcement action
10 against Gusich with respect to actions, decisions, or statements he has made by
11 reason of being a director of the Association. The Majority has acted, and continues
12 to act, intentionally to sideline, silence, and sabotage Gusich as a director because
13 he refuses to comply with arbitrary and unreasonable demands about how he should
14 and should not fulfill the fiduciary duties he owes to the Association.

15 49. The Majority continues to cite Gusich's alleged ongoing violations of the
16 Grand Standards as a pretext for the Board's ongoing efforts to compel compliance
17 from other members and for excluding Gusich from participating in Board decisions
18 as an equal Board member on par with the other members.

19 **COUNT ONE**
20 **Declaratory Judgment (Code of Conduct)**

21 50. Gusich incorporates the foregoing allegations as if set forth fully herein.

22 51. An actual and ripe controversy has arisen and now exists between the
23 parties concerning, among other things, the validity and enforceability of the Grand
24 Standards, the legality and unreasonableness of the Majority's enforcement actions,
25 the legal sufficiency of the petition for Gusich's recall put forth by the Majority, and
26

1 shall indemnify every director and committee member
2 against all expenses, *including attorney fees*, incurred by
3 them in connection with any action, suit, or other proceeding
4 (including settlement of any suit or proceeding, if approved
5 by the Board) to which he or she may be a party by reason of
6 being or having been a director or committee member of the
7 Association.

8 The directors and committee members shall not be liable for
9 any mistake of judgment, negligent or otherwise, except for
10 their own individual willful misfeasance, malfeasance,
11 misconduct, or bad faith. The directors shall have no
12 personal liability with respect to any contract or other
13 commitment made or action taken in good faith on behalf of
14 the Association. The Association shall indemnify and forever
15 hold each such director and committee member harmless
16 from any and all liability to others on account of any such
17 contract commitment or action. Any right to indemnification
18 provided for herein shall not be exclusive of any other rights
19 to which any present or former director or committee
20 member may be entitled. The Association shall, as a
21 Common Expense, maintain adequate general liability and
22 officers' and directors' liability insurance to fund this
23 obligation, if such insurance is reasonably available.

24 *See Exhibit 2.*

25 68. Gusich has requested indemnity in connection with the Board's
26 enforcement actions.

69. The Association has refused, breaching its contract with Gusich.

70. Gusich is entitled to indemnity and has been damaged in an amount to
be proven at trial.

71. Plaintiff is entitled to recover his costs and attorney's fees pursuant to
Section 6.5 of the Association's Bylaws and A.R.S. §§ 12-341 & 12-341.01.

PRAYER FOR RELIEF

Wherefore, Plaintiff demands and prays for judgment as follows:

1 (A) Awarding a declaratory judgment declaring the Grand Standards
2 to be void, invalid, unlawful, or otherwise unenforceable;

3 (B) Awarding a declaratory judgment declaring that the solicited
4 email messages do not qualify as a signature to an alleged petition for the recall of
5 Plaintiff;

6 (C) Awarding a declaratory judgment declaring that any vote or
7 election to remove Plaintiff or replace Plaintiff is invalid, ineffective, void ab initio,
8 or null and void;

9 (D) Awarding a declaratory judgment and a permanent injunction
10 forbidding Defendant from excluding Plaintiff from meetings or executive meetings;

11 (E) Awarding a permanent injunction against Defendant, banning
12 Defendant from enforcing the Grand Standards;

13 (F) Awarding Plaintiff his reasonable attorneys' fees and costs; and

14 (G) Awarding Plaintiff such relief as this Court deems just and proper.

15 DATED this 20th day of February 2025.

16 DESSAULES LAW GROUP

17
18 By: /s/ David E. Wood
19 Jonathan A. Dessaulles
20 David E. Wood
21 *Attorneys for Plaintiff*
22
23
24
25
26

1 COURTESY COPY of the foregoing document mailed
2 and emailed this 20th day of February 2025 to:

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16 /s/ Hilary Narveson
17 _____
18
19
20
21
22
23
24
25
26

EXHIBIT 1

Unofficial Document



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
96-0491079 07/12/96 12:05
LILIAN 19 OF 19

**WILL BE PICKED UP BY:
SUN CITY TITLE**

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SUN CITY GRAND**

**HYATT & STUBBLEFIELD, P. C.
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"B" Land Subject to Annexation
"C" Initial Use Restriction Unofficial Document
"D" Rules of Arbitration

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

SUN CITY GRAND

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUN CITY GRAND ("Declaration") is made this 11th day of July, 1996, by Del Webb Home Construction, Inc., an Arizona corporation (hereinafter referred to as the "Declarant").

Declarant is the owner of the real property described in Exhibit "A," which is attached hereto and incorporated herein by this reference. This Declaration imposes upon the Properties (as defined in Article I) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties.

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

Article I

DEFINITIONS

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

1.1. "Activity Card(s)": Those certain cards which are issued by the Association in accordance with the terms and conditions set forth in Section 2.2 and which confer upon the holder rights of access to and use of recreational facilities and other Common Areas within the Properties (subject to the payment of greens fees, admission fees, or other use fees established by the Board from time to time).

1.2. "Age-Qualified Occupant": Any Person (a) 40 years of age or older who owns and occupies a Dwelling Unit and was the original purchaser of the Dwelling Unit from the Declarant; or (b) 55 years of age or older who occupies a Dwelling Unit. An occupant of an Ancillary Unit, unless also an Age-Qualified Occupant of the primary Dwelling Unit on the Lot, shall not be an Age-Qualified Occupant.

1.3. "Ancillary Unit": Any detached structure on a Lot which is intended as a residential dwelling ancillary to the structure on the same Lot which serves as the primary Dwelling Unit for the Lot (e.g., an "in-law" or "guest" suite).

1.4. "Area of Common Responsibility": The Common Area, together with those areas, if any, which the Association does not own but which by the terms of Section 5.1 or other provisions of this Declaration, any Supplemental Declaration, or other applicable covenants, or by contract become the responsibility of the Association.

1.5. "Architectural Review Committee" or "ARC": The committee established by the Board to review all plans and applications for the construction and modification of improvements on the Properties (subject to the rights reserved to Declarant in Section 11.2(a)) and to administer and enforce the architectural controls described in Article XI.

1.6. "Articles": The Articles of Incorporation of Sun City Grand Community Association, Inc., as filed with the Arizona Corporation Commission.

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1.7. "Association": Sun City Grand Community Association, Inc., an Arizona nonprofit corporation, its successors or assigns.

1.8. "Base Assessment": Assessments levied on all Lots subject to assessment under Section 10.9 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 10.1 and 10.3.

1.9. "Benefitted Assessment": An assessment levied against a particular Lot or Lots for expenses incurred or to be incurred by the Association for the purposes described in Section 10.7.

1.10. "Board of Directors" or "Board": The body responsible for establishing the operational and corporate policies of the Association and for overseeing their implementation and enforcement. The members of the Board shall be selected as provided in the By-Laws.

1.11. "Builder": Any Person purchasing one or more Lots to construct Dwelling Units thereon for later sale to Class "A" Members or one or more Lots or parcels of land within the Properties to subdivide, develop, and/or resell in the ordinary course of such Person's business.

1.12. "By-Laws": The By-Laws of Sun City Grand Community Association, Inc., as they may be amended from time to time.

1.13. "Class "B" Control Period": The period during which the Class "B" Member is entitled to appoint a majority of the Board members. The Class "B" Control Period shall expire upon the first to occur of the following:

- (a) when 100% of the Maximum Lots have certificates of occupancy issued thereon and have been conveyed to Class "A" Members;
- (b) when the Class "B" membership terminates;
- (c) December 31, 2045; provided, in the event that Declarant annexes additional property pursuant to Section 9.1 at any time after December 31, 2040, the above date shall be extended for additional three year periods for each additional 500 acres, or fraction thereof, of property annexed; or
- (d) when, in its discretion, the Class "B" Member so determines.

1.14. "Common Area": All real and personal property which the Association now or hereafter owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including easements held by the Association for those purposes. The term shall include the Exclusive Common Area, as defined below, and may include, without limitation, recreational facilities, entry features, signage, landscaped medians, rights of way, lakes, ponds, and land operated as a golf course, if any.

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1.15. "Common Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association, including, without limitation (a) expenses incurred for the general benefit of all Owners and occupants of Lots, (b) the In Lieu Payments (defined in Section 4.18 below) to the Maricopa County Municipal Water Conservation District Number One pursuant to the MWD Agreement (defined in Section 4.18 below), and (c) expenses for Board approved capital expenditures and any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles.

1.16. "Community-Wide Standard": The standard of conduct, maintenance, or other activity required within the Properties. Such standard may contain both objective and subjective elements. For as long as the Declarant owns any portion of the property described in Exhibits "A" or "B," it shall have the authority to establish the subjective elements of the Community-Wide Standard. The objective elements of the Community-Wide Standard shall be determined by the Board, subject to any specific requirements set forth in the Design Guidelines. The Community-Wide Standard may evolve as development progresses and as the needs and demands of the Sun City Grand community change.

After Declarant no longer owns any property described in Exhibits "A" or "B," the Community-Wide Standard shall be the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties at the subject point in time, as determined exclusively by the Board, or by the ARC (defined herein) with the approval of the Board.

1.17. "Covenant to Share Costs": Any declaration of easements and/or covenant to share costs executed by Declarant or the Association and recorded in the Office of the County Recorder which creates easements for the benefit of the Association and the present and future owners of real property subject to such Covenant to Share Costs and/or which obligates the Association and such owners to share the costs of maintaining certain property described therein.

1.18. "Declarant": Del Webb Home Construction, Inc., an Arizona corporation, or any successor, successor-in-title, or assign of Del Webb Home Construction, Inc., who has or takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or resale in the ordinary course of business and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.19. "Design Guidelines": The architectural, design, development, landscaping, and other guidelines, standards, controls, and procedures, including but not limited to, application and plan review procedures, adopted pursuant to Article XI and applicable to the Properties.

1.20. "Dwelling Unit": Any building or structure or portion of any building or structure situated upon a Lot which is intended for use and occupancy as an attached or detached residence for a single family, including by way of illustration but not limitation, condominium units, townhome units, cluster homes, patio or zero lot line homes, and single family detached houses, but excluding any rental apartments within any apartment or rental structure or complex. Notwithstanding the above, an Ancillary Unit shall not be a separate Dwelling Unit but, instead, shall be deemed a part of the building or structure serving primarily as the Dwelling Unit on the Lot.

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

1.22. "Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, the Design Guidelines, the Use Restrictions, and any other rules or regulations enacted by the Association with respect to the Properties, as each may be amended from time to time.

1.23. "Lot": A portion of the Properties, whether improved or unimproved (other than Common Area, common property of any Neighborhood Association, property dedicated to the public, and any Private Amenity), which may be independently owned and conveyed and which is intended to be developed, used, and occupied with an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements,

including any Dwelling Unit, thereon. The term shall include, by way of illustration but not limitation, condominium units, townhome units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such. In the case of any structure containing multiple Dwelling Units, each Dwelling Unit shall be deemed to be a separate Lot.

Prior to recordation of a subdivision plat, a parcel of vacant land on which improvements are under construction shall be deemed to contain the number of Lots designated for residential use for such parcel on the applicable preliminary plat, or the site plan approved by Declarant, whichever is more current. Until a preliminary plat or site plan has been approved, such parcel shall contain the number of Lots set by Declarant in conformance with the Master Plans.

1.24. "Master Plans": The plans for the development of Sun City Grand as set forth in that certain Development Agreement by and between the City of Surprise, Arizona, and Del Webb Home Construction, Inc., recorded on February 28, 1994, as Document No. 94-0162702, in the Office of the County Recorder of Maricopa County, Arizona, as assigned and amended, and as they may be amended, updated, or supplemented from time to time. The Master Plans encompass the property described in Exhibit "A" and a portion of the property described in Exhibit "B." The Master Plans may also include subsequent plans approved by the City of Surprise for the development of all or a portion of the property described in Exhibit "B" which Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plans shall not, under any circumstances, obligate Declarant to subject such property to this Declaration nor shall the exclusion of property described in Exhibit "B" Unofficial Document from the Master Plans bar its later annexation in accordance with Article IX.

1.25. "Maximum Lots": The maximum number of Lots approved for development within Sun City Grand under the Master Plans, as amended from time to time; provided, however, that nothing in this Declaration shall be construed to require the Declarant to develop the maximum number of Lots approved. The Maximum Lots as of the date of this Declaration is 10,410 Lots.

1.26. "Member": A Person entitled to membership in the Association. Every Owner, as defined in Section 1.36, shall be a Member of the Association, as further described in Section 3.2.

1.27. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

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

1.29. "Neighborhood": Any residential area within the Properties which is designated as a Neighborhood, whether or not governed by a Neighborhood Association, as more particularly described in Section 3.4. By way of illustration and not limitation, a townhome development, cluster home development, or single-family detached housing development might each be designated as a separate Neighborhood, or may be combined as one Neighborhood. A Neighborhood may be

comprised of more than one housing type. In addition, a parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood upon development.

1.30. "Neighborhood Assessments": Assessments levied against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Sections 10.1 and 10.4.

1.31. "Neighborhood Association": An owners' association having jurisdiction over a specific Neighborhood concurrent with, but subordinate to, the Association.

1.32. "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of the Owners of Lots within a particular Neighborhood or Neighborhoods, which may include reasonable reserves, as the Board may specifically authorize and as may be authorized herein or in a Supplemental Declaration applicable to a Neighborhood.

1.33. "Neighborhood Representative": The representative selected by the Members within a Neighborhood to represent the Neighborhood in Association matters other than those requiring a vote of the membership. An alternate Neighborhood Representative may carry out the responsibilities of the Neighborhood Representative in his or her absence.

1.34. "occupy," "occupies," Unofficial Document "ancy": Such terms, or any derivative thereof, shall mean staying overnight in a particular Dwelling Unit for at least 60 days in the subject calendar year.

1.35. "Office of the County Recorder": The Office of the County Recorder of Maricopa County, Arizona.

1.36. "Owner": Cumulatively, all Persons who hold the record title to any Lot. The term "Owner" shall not include Persons holding an interest merely as security for the performance of an obligation, in which case the equitable owner will be considered the Owner.

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

1.38. "Plans": The architectural and land use plans and specifications required to be submitted with applications for approval of proposed work under Article XI.

1.39. "Private Amenity": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise. For example, any golf course and all related and supporting facilities

and improvements which are owned and operated by Persons other than the Association shall be a Private Amenity. Any property constituting a Lot, Dwelling Unit, or Common Area hereunder shall not be a Private Amenity.

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

1.41. "Qualified Occupant": Any of the following Persons occupying a Dwelling Unit:

(a) any Age-Qualified Occupant;

(b) any Person 19 years of age or older occupying a Dwelling Unit with an Age-Qualified Occupant; and

(c) any Person 19 years of age or older who occupied a Dwelling Unit with an Age-Qualified Occupant and who continues, without interruption, to occupy the same Dwelling Unit after termination of the Age-Qualified Occupant's occupancy thereof.

Notwithstanding the above, an occupant of an Ancillary Unit, unless also a Qualified Occupant of the primary Dwelling Unit on the Lot, shall not be a Qualified Occupant.

1.42. "Special Assessment": Assessments levied against all Owners to cover unanticipated expenses or expenses in excess of the budgeted, as described in Section 10.6.

1.43. "Sun City Grand": The Properties, as defined above, together with such other property as may be developed in accordance with the Master Plans.

1.44. "Supplemental Declaration": An amendment or supplement to this Declaration which among other things, may subject additional property to this Declaration, identify Common Area or Exclusive Common Area within the Properties, and/or impose, expressly or by reference, additional restrictions and obligations on the land described therein. The term shall also refer to an instrument filed by the Declarant pursuant to Section 3.4(c), which designates Voting Groups.

1.45. "Use Restrictions": The rules and use restrictions attached as Exhibit "C" and incorporated by reference, as they may be modified, canceled, limited, or expanded under Article XII.

1.46. "Vacation Villa": Residential improvements constructed by the Declarant for temporary use or residency as set forth in Section 15.5.

1.47. "Voting Group": One or more Neighborhoods comprised of Owners who vote on a common slate for election of directors to the Board of Directors, as more particularly described in Section 3.4.

Article II
PROPERTY RIGHTS

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

- (a) The Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules, regulations, or policies regulating the use and enjoyment of the Common Area, including rules restricting use of recreational facilities within the Common Area to occupants of Dwelling Units and their guests, and rules limiting the number of occupants and guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area pursuant to Section 4.2;
- (e) The right of the Association to dedicate or transfer all or any part of the Common Area to governmental entities pursuant to Section 4.5;
- (f) The right of the Board^{Unofficial Document} to enter upon the Common Area, or to grant licenses permitting the use of the Common Area, by third parties for purposes deemed, in the discretion of the Board, to benefit the Properties;
- (g) The right of the Board to impose reasonable membership requirements and charge reasonable membership, admission, or other fees for the use of any recreational facility situated upon the Common Area;
- (h) The right of the Board to permit use of any recreational facilities situated upon the Common Area by Persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board (including, but not limited to, residents of life care facilities and rental apartments that are subject to a Covenant to Share Costs with the Association);
- (i) The right of the Board to create, enter agreements with, grant easements to, and transfer portions of the Common Area to tax-exempt organizations under Section 4.13;
- (j) The right of the Association to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (k) The right of the Maricopa Water District to file a lien upon any Common Area in the event of the failure of the Declarant or the Association to make "In Lieu Payments," as more particularly described in Section 4.18;

(l) The rights of certain Owners to the exclusive use of those portions of the Common Area designated as Exclusive Common Areas, as more particularly described in Section 2.4;

(m) The right of the Association to rent, lease, or make available without charge for any purpose (including, without limitation, public meetings of governmental authorities) any portion of any clubhouse and other recreational facilities within the Common Area on a short-term basis to any Person approved by the Association for the exclusive use of such Person and such Person's family; guests and/or invitees; and

(n) The requirement that access to and use of recreational facilities within the Properties shall be subject to the presentation of a valid Activity Card issued by the Association.

2.2. Activity Cards.

(a) Issuance by the Board. One Activity Card shall be allocated to each Qualified Occupant of a Lot, up to a maximum of two Activity Cards per Lot. No Activity Cards shall be allocated to any Lot which is not occupied by a Qualified Occupant. The Board shall determine entitlement to Activity Cards on an annual basis. If the Lot continues to be occupied by a Qualified Occupant and all applicable assessments and other charges pertaining to the Lot have been paid, the Activity Card(s) allocated to such Lot shall be renewed annually without charge. The Board may establish policies, limits, and charges with regard to the issuance of additional cards and guest privilege cards.

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Activity Cards may be issued to Persons who have signed binding contracts to purchase a Lot, subject to such policies as the Board may determine from time to time, and to Persons entitled to receive Activity Cards pursuant to a Covenant to Share Costs.

(b) Assignment of Rights. Except as may be expressly provided in a Covenant to Share Costs, the right to an Activity Card is based upon occupancy of a Lot. If, and so long as, a Lot is occupied solely by Persons other than the Owner, pursuant to a lease or otherwise, then (i) the Owner shall not be entitled to receive an Activity Card, and (ii) the right of any occupant to receive an Activity Card shall depend on his or her status as a Qualified Occupant. Any Owner who leases or otherwise transfers occupancy of his or her Lot shall provide the Association with immediate written notice thereof and shall surrender to the Association his or her previously issued Activity Card. Activity Cards shall be surrendered by any holder who ceases to occupy a Lot, or at any time upon written notification from the Association that the holder no longer is entitled to hold an Activity Card.

(c) Vacation Villas. Each Vacation Villa, as described in Article XV, whether located within or outside of the Properties, shall be allocated, free of charge, two Activity Cards for use by the temporary residents of the Vacation Villa. Notwithstanding any limitations which may be imposed by the Board on the issuance of Activity Cards, at any time during which the Declarant is

operating Vacation Villas, and upon request and the payment of the then current charge for additional Activity Cards, Declarant shall be entitled to receive additional cards corresponding to the number of Persons using or residing in a Vacation Villa at the time of the request. In the event that no "then current charge" is in effect at the time of such request, the charge for additional Activity Cards for Vacation Villas shall be determined in the reasonable discretion of the Declarant.

(d) Issuance to the Declarant. As long as the Declarant owns any property described in Exhibits "A" or "B," the Association shall provide the Declarant, free of charge, with as many Activity Cards as the Declarant, in its sole discretion, deems necessary for the purpose of marketing the Properties or the property described in Exhibit "B." The Declarant may transfer the Activity Cards to prospective purchasers of Lots subject to such terms and conditions as it, in its sole discretion, may determine. Activity Cards provided to the Declarant shall entitle the bearer to use all recreational facilities and other Common Areas (subject to the payment of greens fees, admission fees, or other use fees charged to Qualified Occupants holding Activity Cards).

2.3. Age Restriction. Sun City Grand is intended to provide housing primarily for persons 55 years of age or older. The Properties shall be operated as an age restricted community in compliance with all applicable State and Federal laws. No person under 19 years of age shall stay overnight in any Dwelling Unit for more than 90 days in any calendar year.

Subject to Section 15.11, under which Persons between the ages of 40 and 55, inclusive, who purchase Lots from the Declarant are permitted to occupy Dwelling Units, each Dwelling Unit, if occupied, shall be occupied by at least One Person 55 years of age or older; provided, once a Dwelling Unit is occupied by an Age-Qualified Occupant, other Qualified Occupants of that Dwelling Unit may continue to occupy that Dwelling Unit, regardless of the termination of the Age-Qualified Occupant's occupancy, if at least 80% of the Dwelling Units within the Properties are occupied by at least one Person 55 years of age or older. In any event, at all times, at least 80% of the Dwelling Units within the Properties shall be occupied by at least one Person 55 years of age or older.

The Board may establish policies and procedures from time to time as necessary to maintain its status as an age restricted community under State and Federal law. The Association shall provide, or contract for the provision of, those facilities and services designed to meet the physical and social needs of older Persons as may be required under such laws. The Board shall have the power and authority to enforce this Section 2.3 by any legal or equitable means available, as the Board deems appropriate.

2.4. Exclusive Common Area. The Declarant reserves the right to designate certain portions of the Common Area as Exclusive Common Area as long as it owns any property described in Exhibits "A" or "B" to this Declaration. Exclusive Common Area shall be Common Area that is reserved for the exclusive use or primary benefit of Owners, occupants, and invitees of Lots within a particular Neighborhood or Neighborhoods. Exclusive Common Area may include, without limitation, recreational facilities, landscaped rights of way and medians, and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with

maintenance, repair, replacement, and insurance of Exclusive Common Area shall be assessed as a Neighborhood Assessment in addition to the Base Assessment against the Owners of Lots in those Neighborhoods to which the Exclusive Common Area is assigned.

The Declarant may designate Exclusive Common Area or change such designation by recording a Supplemental Declaration with the Office of the County Recorder indicating the Exclusive Common Area and the Neighborhood or Neighborhoods to which it is assigned. In addition, by recording a Supplemental Declaration, the Association may designate Common Area as Exclusive Common Area upon a majority vote of the Class "A" Members in the Association or change such designation upon a majority vote of Class "A" Members in each affected Neighborhood (i.e., the Neighborhood(s) within which the Exclusive Common Area is being designated or from which it is being redesignated). In addition, as long as the Declarant owns any property described in Exhibits "A" or "B" to this Declaration, its consent shall be required for any designation or change in designation of Exclusive Common Area. The Association may permit Owners of Lots in other Neighborhoods to use all or a portion of Exclusive Common Area assigned to other Neighborhoods upon payment of reasonable use fees which shall offset the Neighborhood Expenses attributable to such Exclusive Common Area.

Article III

ASSOCIATION FUNCTION, MEMBERSHIP, AND VOTING RIGHTS

3.1. Function of Association Unofficial Document Association shall be the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for compliance with and enforcement of this Declaration and such reasonable rules regulating use of the Properties as are adopted in accordance with the Governing Documents. The Association also shall be responsible for administering, monitoring compliance with, and enforcing the Design Guidelines after such time as the Declarant transfers its authority to enforce the Design Guidelines to the Association or when otherwise designated by the Declarant. The responsibilities of the Association may be delegated to committees or the Association may engage outside Persons to monitor and enforce this Declaration (including, without limitation, the Use Restrictions) and the Design Guidelines in accordance with policies established by the Board. The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles, and Arizona law.

3.2. Membership. Every Owner shall be a Member of the Association; provided, there shall be only one membership per Lot. If a Lot is owned by more than one Person, all Persons comprising the Owner shall share the privileges of membership, subject to (i) reasonable Board regulation, (ii) the limitations set forth in, and such reasonable fees as may be established under Article II, and (iii) the restrictions on voting set forth in Section 3.3 and in the By-Laws. All Persons comprising a single Owner shall be jointly and severally obligated to perform the responsibilities of such Owner. The membership rights of an Owner which is a corporation, partnership, or other legal entity may be exercised by any officer, director, partner, or trustee, or by any other individual having

apparent authority or who is designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

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

(a) Class "A." The Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 3.2; provided, there shall be only one Class "A" vote per Lot.

(b) Class "B." The Class "B" Member shall be, collectively, the Declarant and any Builder(s) who are Owners. The Class "B" Member shall not vote on a per Lot basis. The rights of the Class "B" Member, including the right to disapprove actions of the Board and committees, are specified in this Declaration and the By-Laws and, unless otherwise specified, shall be exercised by the Declarant in its sole and absolute discretion. The Class "B" membership shall cease and be converted to Class "A" membership upon the earliest of the following:

- (i) two years after the expiration of the Class "B" Control Period;
- (ii) when 100% of the Maximum Lots have been conveyed to Class "A" Members; or
- (iii) when, in its discretion, the Declarant so determines.

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From and after the termination of the Class "B" membership, each of the Persons comprising the Class "B" Member shall be deemed to be Class "A" Members and shall be entitled to one vote for each Lot in which it holds the interest required for membership under Section 3.2.

(c) Exercise of Voting Rights. Members may vote directly or by proxy as provided in the By-Laws. The Board shall determine whether votes shall be cast in person or by mail from time to time. If there is more than one Person comprising the Owner of a particular Lot, the vote for such Lot shall be exercised as all Persons comprising the Owner determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such notice to the Association, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

3.4. Neighborhoods, Neighborhood Representatives, and Voting Groups.

(a) Neighborhoods. Every Lot shall be located within a Neighborhood. The Lots within a particular Neighborhood may be subject to additional covenants. In addition, if (but only if) required by law or by the Declarant, the Owners of Lots within a particular Neighborhood shall be members of a Neighborhood Association.

Any Neighborhood may, upon the affirmative vote, written consent, or a combination thereof, of a majority of the Class "A" Members in the Neighborhood, request that the Association provide an increased level of service or special services for the benefit of Lots in such Neighborhood. In such event, the Association may, but shall not be obligated to, provide such service or services. If provided, all costs shall be assessed against the Lots within such Neighborhood as a Neighborhood Assessment pursuant to Article X. The Neighborhood Representative shall communicate all such requests to the Board.

Each Neighborhood shall hold meetings annually or more often as required by the Board or upon the petition of at least 10% of the Class "A" Members in the Neighborhood. All Owners in the Neighborhood shall be entitled to attend Neighborhood meetings. The Neighborhood Representative shall preside over Neighborhood meetings and shall place such issues on the agenda as the Board may determine. The presence of at least 15% of the Class "A" Members in a Neighborhood shall constitute a quorum at any Neighborhood meeting.

Exhibit "A" to this Declaration, and each Supplemental Declaration filed to subject additional property to this Declaration, shall initially assign the property described therein to an existing or newly created Neighborhood by name. Subject to any applicable law, the Declarant, as long as it owns any property described in Exhibit "A" or "B," may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries. After such time, the Association may redesignate Neighborhood boundaries upon the affirmative vote of a majority of the Class "A" Members in each affected Neighborhood so long as such redesignation does not overburden any Exclusive Common Area; Unofficial Document the consent of the Declarant must be obtained for such redesignation so long as the Declarant owns any Lots within either of the affected Neighborhoods.

(b) Neighborhood Representative. Each Neighborhood shall be represented by a Neighborhood Representative and an alternate. Neighborhood Representatives shall preside over meetings of their respective Neighborhood and shall be responsible for communication between the Owners in the Neighborhood and the Board. Neighborhood Representatives also shall attend Neighborhood Representative meetings when requested by the Board. An alternate Neighborhood Representative shall act in the absence of the Neighborhood Representative. The alternate Neighborhood Representative may attend meetings of the Neighborhood Representatives but shall not be able to formally represent his or her Neighborhood except in the absence of the Neighborhood Representative.

The Board shall establish rules and procedures governing the selection or election of the Neighborhood Representatives, the length of the term to be served by Neighborhood Representatives, and the limitations, if any, on the ability to serve consecutive terms. Such rules and procedures may be revised by the Board from time to time. Notwithstanding the above, the Neighborhood Representative for any particular Neighborhood shall be selected by the Board until 50% of the Dwelling Units planned for such Neighborhood have been constructed and are owned by Class "A" Members. Any Owner or Qualified Occupant of a Dwelling Unit within a Neighborhood shall be eligible to serve as the Neighborhood Representative or alternate for such Neighborhood.

Any Neighborhood Representative or alternate may be removed, with or without cause, by the Board if it determines that the Neighborhood Representative or alternate is not satisfactorily representing his or her Neighborhood. Neighborhood Representatives and alternates are deemed automatically removed if they no longer own or are a Qualified Occupant of a Dwelling Unit in the Neighborhood. If at any time a Neighborhood does not have a Neighborhood Representative and alternate, the Board shall select a replacement to fill the vacancy.

(c) Voting Groups. The Declarant may, but is not obligated to, designate Voting Groups consisting of one or more Neighborhoods for the purpose of electing directors to the Board. Following termination of the Class "B" Control Period, the number of Voting Groups within the Properties shall not exceed the total number of directors to be elected by the Members pursuant to the By-Laws. Members in each Voting Group shall vote on a separate slate of candidates for election to the Board, with each Voting Group being entitled to elect the number of directors specified in the By-Laws.

The Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Declarant's right to annex property pursuant to Article IX, by filing with the Association and in the Office of the County Recorder, a Supplemental Declaration identifying the Neighborhoods within each Voting Group. Such designation may be amended from time to time by the Declarant, acting alone, at any time prior to the expiration of Declarant's right to annex property pursuant to Article IX.

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After expiration of the Declarant's right to annex property pursuant to Article IX, the Board shall have the right to file or amend any such Supplemental Declaration creating a Voting Group upon the vote of at least 85% of the total number of directors; provided, to the extent that 85% of the total number of directors is equal to a fractional number, the fraction shall be rounded up to the next whole number. Neither recordation nor amendment of such Supplemental Declaration shall constitute an amendment to this Declaration as provided in Section 18.2, and no consent or approval of any Person shall be required except as stated in this paragraph.

Until such time as Voting Groups are established, all of the Properties shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been filed, any and all portions of the Properties which are not assigned to a specific Voting Group shall constitute a single Voting Group.

Article IV

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate located within the properties

described in Exhibits "A" or "B," personal property, and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed, including but not limited to, restrictions governing the use or maintenance of such property.

The Declarant shall convey the initial Common Area to the Association prior to or concurrent with the conveyance of the first Lot to a Class "A" Member.

4.2. Enforcement. The Board may impose sanctions for violation of this Declaration, the By-Laws, or any rule or regulation, after notice and a hearing in accordance with the procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(a) imposing reasonable monetary fines (In the event that any occupant, guest, or invitee of a Lot violates any provision of any of the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(b) suspending an Owner's right to vote;

(c) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

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(d) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association; and

(e) levying Benefitted Assessments to cover costs incurred or to be incurred in bringing a Lot into compliance in accordance with Section 10.7(b).

In addition, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations in accordance with any applicable ordinance(s) of the City of Surprise or the County of Maricopa, Arizona) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedures set forth in Article XVII or in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of any of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall be obligated to investigate allegations of violations of any covenant, restriction, or rule set forth in any of the Governing Documents. Following such investigation, the decision to take or not take enforcement action shall, in each case, be in the discretion of the Board, in the exercise of its business judgment. Without limiting the generality of the Board's discretion, if the Board reasonably determines that a covenant, restriction, or rule is, or is likely to be construed as, inconsistent with the applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action, the Board shall not be obligated to take such action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision at a later time or under other circumstances, or estop the Association from enforcing any other covenant, restriction, or rule.

Notwithstanding the above, if, in the discretion of the Declarant as long as Declarant owns any property described in Exhibits "A" or "B," the Association fails to take appropriate action to enforce any provision of the Governing Documents in accordance with its rights and responsibilities, the Declarant may take such enforcement action on behalf of the Association. Declarant shall not take such action without first providing the Association written notice and a reasonable opportunity to take such action on its own.

4.3. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, Articles, or by law, all rights and powers of the Association may be exercised by the Board Unofficial Document at a vote of the membership.

4.4. Governmental Interests. So long as the Declarant owns any property described in Exhibits "A" or "B," the Declarant may designate sites within the Properties for fire, police and utility facilities, public schools and parks, and other public facilities in accordance with the Master Plans and applicable laws. The sites may include Common Area if otherwise permitted by the Master Plans. Such property shall be exempt from assessment as provided in Section 10.12.

4.5. Dedication of Common Area. The Association, in the exercise of the Board's business judgment, may dedicate or grant easements over portions of the Common Area to any local, state, or federal governmental entity or any utility company. This right shall not be construed as a limitation upon the right of the Board to permit entry upon the Common Area or to grant licenses permitting the use of the Common Area by third parties for purposes deemed, in the discretion of the Board, to benefit the Properties.

4.6. Assumption of Risk. The Association may, but shall not be obligated to, sponsor certain activities or provide facilities designed to promote the health, safety, and welfare of Owners and occupants. Notwithstanding anything contained herein or in any of the Governing Documents, neither the Association, the members of the Board, the officers of the Association, the management company of the Association, nor the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or occupant of any Lot or any

tenant, guest or invitee of any Owner or occupant or for any property of any such Persons. **Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risks associated with the use and enjoyment of the Properties, including all Common Area and all recreational facilities, if any.**

Neither the Association, the members of the Board, the officers of the Association, the Association's management company, nor the Declarant shall be liable or responsible for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Properties. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence or malfunction of utility lines or utility sub-stations and further acknowledges that neither the Association, the members of the Board, the officers of the Association, the Association's management company, nor the Declarant have made any representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

No provision of the Governing Documents shall be interpreted as creating a duty of the Association, the members of the Board, the officers of the Association, the management company of the Association, or the Declarant to protect or further the health, safety, or welfare of any Person(s), even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her ^{Unofficial Document} ownership of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Properties (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands, and causes of action against the Association, the Board, the Association's management company, and the Declarant, their directors, officers, committee and board members, employees, agents, contractors, subcontractors, successors, and assigns arising from or connected with any matter for which the liability has been disclaimed.

4.7. Security. The Association may maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be; provided, however, unless otherwise specifically indicated in this Declaration, the Association shall not be obligated to maintain or support such activities.

Neither the Association, its officers, the Board, the Association's management company, nor the Declarant shall in any way be considered insurers or guarantors of security within the Properties. Neither the Association, its officers, the Board, the Association's management company, nor the Declarant, shall be held liable for any loss or damage for failure to provide adequate security or for the ineffectiveness of any security measures undertaken.

All Owners and occupants of any Lot, and all tenants, guests, and invitees of any Owner, acknowledge that neither the Association, its officers, the Board, the Association's management company, the Declarant, nor the Architectural Review Committee (as described in Article XI) represent or warrant that any patrolling of the Properties, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security system designated by or installed according to guidelines established by the Declarant or the Architectural Review Committee may not be compromised or circumvented; nor that any patrolling of the Properties, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security systems will prevent loss by burglary, theft, hold-up, or otherwise; nor that patrolling of the Properties, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security systems will in all cases provide the detection or protection for which the system is designed or intended.

All Owners and occupants of any Lot and all tenants, guests, and invitees of any Owner assume all risks for loss or damage to Persons, to Lots, and to the contents of Lots and further acknowledge that the Association, its officers, the Board and committees, the Association's management company, or the Declarant, have made no representations or warranties, nor has any Owner, occupant, or any tenant, guest, or invitee of any Owner relied upon any representations or warranties, expressed or implied, relative to any patrolling of the Properties, neighborhood watch group, volunteer security patrol, fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Property.

4.8. Powers of the Association Relating to Neighborhood Associations. No action of any Neighborhood Association shall become effective or be implemented until and unless the Association and Declarant, as long as it owns any property described in Exhibits "A" or "B," shall have been given written notice of such proposed action and shall not have disapproved of the proposed action, or unless such action is in strict compliance with guidelines set by the Board. The Association and the Declarant shall have ten business days from receipt of the notice to disapprove any proposed action. The Association may disapprove any action taken or contemplated by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Declarant also shall have the right to disapprove actions of any Neighborhood Association as provided in the By-Laws.

The Association also may require specific action to be taken by any Neighborhood Association to fulfill its obligations and responsibilities under this Declaration or any other applicable covenants. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood Association, and (b) require that a proposed Neighborhood budget include the cost of such work.

Any action specified by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Neighborhood Association shall be taken within the reasonable time frame set by the Association in such written notice. If the Neighborhood Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood Association.

To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Lots in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such action. Such assessments shall be Benefitted Assessments as described in Section 10.7. and shall be subject to all collection and lien rights provided in Article X.

4.9. Recycling Programs. The Board may establish a recycling program and recycling center within the Properties, and in such event all occupants of Dwelling Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

4.10. Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other Unofficial Document agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board shall be permitted to modify or cancel existing services or facilities, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to what services and facilities, if any, will be provided by the Association.

4.11. Change of Use of Common Area. The Board may change the use of any portion of the Common Area and construct, reconstruct, or change the buildings and other improvements thereon in any manner necessary to accommodate the new use of the Common Area. Any new use shall be for the benefit of the Owners and not inconsistent with the then effective Master Plans. Any change in use of the Common Area shall be subject to approval by the Declarant as long as it owns any property described in Exhibits "A" or "B," but shall not be subject to approval by any other Owner.

4.12. View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and across any property, including any Lot, from adjacent Lots will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation

to prune or thin trees or other landscaping except as set forth in Article V. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

4.13. Relationship with Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, grant exclusive and/or non-exclusive easements over the Common Area to, or transfer portions of the Common Area to non-profit, tax-exempt organizations, including, but not limited to, organizations that provide facilities and services designed to meet the physical and social needs of older persons, for the benefit of the Properties, the Association, its Members and residents. The Association may contribute money, real or personal property, or services to any such entity. Any such contribution shall be a Common Expense of the Association and shall be included as a line item in the Association's annual budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code, as may be amended from time to time.

4.14. Relations with Adjacent Properties. Adjacent to or in the vicinity of the Properties are properties which have been or, in the future, may be developed as independent commercial and/or residential areas (including, but not limited to, rental apartments, life care facilities and retail or other business areas). The Declarant or the Association may enter into a Covenant to Share Costs with all or any of the owners of such adjacent or nearby commercial and/or residential areas which allocates access, use of Common Area, maintenance responsibilities, expenses, and other matters between the Association and such property owners. Unless annexed in accordance with Article IX, the owners of adjacent or nearby properties shall not be entitled to vote on Association matters, and shall not be subject to assessment Unofficial Document other conditions or restrictions set forth in this Declaration.

4.15. Amenities Reciprocal Use Agreements. Declarant may cause the Association to, and the Association may from time to time, enter into amenities reciprocal use agreements ("Amenities Agreement(s)") with other master planned communities which are age-restricted pursuant to the Federal Fair Housing Act and which are developed by the Declarant or any affiliate of the Declarant. Under such an Amenities Agreement, Persons associated with such other master planned communities shall be entitled to use the Association's recreational facilities and other amenities, and the Members and their guests, as described in such agreements, shall be entitled to use the recreational facilities and other amenities in such other master planned communities to the extent specifically identified in the Amenities Agreement. The provisions of any Amenities Agreement entered into by the Board shall be subject to the approval of the Declarant, as long as the Declarant owns any property described in Exhibits "A" or "B". Amenities Agreements shall be subject to termination in the discretion of the Board, subject to the approval of the Declarant, as long as it owns any property described in Exhibits "A" or "B."

All Members and their guests, as described in the Amenities Agreements, shall be entitled to enjoy the benefits of any Amenities Agreements to which the Association is a party, to the extent provided in the Amenities Agreement. In consideration for such rights, if any, each Member shall be responsible for user fees for the use of facilities by such Member and such Member's guests, in

accordance with any applicable Amenities Agreement. Rights to use any or all recreational facilities and other amenities shall be subject to any priorities for use established under the Amenities Agreements and any rules and regulations established by the parties to such Amenities Agreements.

The Association may enter into more than one Amenities Agreement and may amend Amenities Agreements for any purpose, including but not limited to, adding additional parties in accordance with the terms of such Amenities Agreements.

4.16. Maintenance of Underground Storage Facilities. The Declarant shall maintain the underground water storage facilities until such time as it transfers ownership and responsibility for operation and maintenance of such facilities to the Association. The Association shall have no rights to operate or maintain the underground storage facilities prior to the same being transferred or assigned by the Declarant. The Association shall accept the underground storage facilities in their then current condition at the time the Declarant transfers them and shall have no claim against the Declarant for any malfunction of or latent defects in the underground storage facilities; provided, however, the Declarant shall transfer the underground storage facilities in working condition as determined by local industry standards and not subject to patent defects.

Each golf course which is served by the underground water storage facilities, whether a Private Amenity or owned by the Association as Common Area, shall contribute to the cost of operating and maintaining such facilities. The allocation of costs between and among such golf courses shall be based upon the water usage of each golf course, respectively, relative to the total water usage of all the golf courses, collectively.
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4.17. Compliance with Development Agreements. The development and operation of Sun City Grand is subject to various development agreements between and among Declarant and its affiliates, and various governmental authorities, including, but not limited to, the Master Plans and the MWD Agreement (defined in Section 4.18 below) (collectively, the "Development Agreements"), as amended or may be amended from time to time. The Association shall comply with all terms and conditions of the Development Agreements, as applicable, and shall accept responsibility for and shall comply with any obligations of the Declarant under the Development Agreements which are assigned to it by the Declarant.

4.18. Maricopa Water District Agreement. The development and operation of Sun City Grand is subject to that certain agreement between Del Webb Home Construction, Inc., and Maricopa County Municipal Water Conservation District Number One ("MWD"), evidenced of record by that certain Memorandum of Agreement dated May 7, 1996, and recorded on May 17, 1996 as Document No. 96-0340938, with the Office of the County Recorder, as amended from time to time (the "MWD Agreement"). Pursuant to the MWD Agreement, Declarant and the Association, as the Declarant's successor in interest, are obligated to pay to MWD an amount in lieu of but equal to the taxes and assessments of MWD that would otherwise have been applicable to portions of the Properties had such lands not been retired from irrigation (the "In Lieu Payments").

The MWD Agreement provides for the delivery of water to Declarant and the Association, as its successor in interest, for use on golf courses and Common Areas, exclusive of dedicated roads and other dedicated rights-of-way ("Turf Lands"), for underground storage recovery projects, and for the payment of the In Lieu Payments. The payment of the In Lieu Payments is a condition to the delivery of water to the Turf Lands within the Properties. In the event the Declarant or the Association as the Declarant's successor-in-interest fails to pay when due the In Lieu Payments, or any portion thereof, MWD has the right to place a lien upon the Turf Lands and, after notice and non-payment of the In Lieu Payments, to foreclose the lien as a deed of trust security lien in accordance with Arizona law. The MWD Agreement also provides that MWD shall accept the In Lieu Payments in lieu of levying taxes or assessments on any land in the Properties and that Declarant, and its successors in interest to the Turf Lands, may participate in MWD elections, with voting rights limited to the total acreage comprising the Turf Lands. No other owner of subdivided land within the Properties may exercise any rights existing by virtue of ownership of land within a subdivision to vote in MWD elections.

The Association shall comply with all terms of the MWD Agreement, as applicable, and shall accept responsibility for and shall comply with any obligations of the Declarant under the MWD Agreement which are assigned to it by the Declarant. The In Lieu Payments shall constitute Common Expenses of the Association and shall be funded by the levy of Base Assessments on all Lots.

This Section 4.18 shall inure to the benefit of MWD and shall not be terminated or amended without the prior written consent of MWD.

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Article V **MAINTENANCE**

5.1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all Common Area;
- (b) all landscaping and other flora, parks, signage, structures, parking areas, and improvements, including any bike and pedestrian pathways and trails, situated upon the Common Area;
- (c) all water service facilities and drainage facilities within the Area of Common Responsibility, including lakes, ponds, and other water features;
- (d) all arterial sidewalks and any sidewalks that are not the responsibility of any Owner, any Neighborhood Association, or any local government entity;

(e) walls and fences constructed by the Declarant which serve as perimeter walls for the Properties or which separate any Lot from Common Area or any golf course, whether or not located on a Lot; provided, the allocation of responsibility for the maintenance and repair of party walls and party fences is set forth in Section 5.5;

(f) landscaping, irrigation systems, and signage within public streets and rights-of-way within or abutting the Properties to the extent maintenance by any local government is not consistent with the Community-Wide Standard, and any streetlights that are not included in a streetlight improvement district;

(g) landscaping and other flora within any public utility easements and scenic easements within the Common Area (subject to the terms of any easement agreement relating thereto);

(h) any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, any plat of any portion of the Properties, or any contract or agreement for maintenance thereof entered into by the Association; and

(i) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property shall be identified by written notice from the Declarant to the Association. The Association's responsibility shall terminate at Unofficial Document as Declarant revokes the privilege of use and enjoyment by written notice to the Association.

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

The Association may maintain other property which it does not own, including, without limitation, property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law.

Except as otherwise specifically provided herein, all costs for maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense allocated among all Lots as part of the Base Assessment, without prejudice to the right of the Association to seek

reimbursement from the Persons responsible for such work pursuant to this Declaration, other recorded covenants, or agreements with such Persons. All costs associated with maintenance, repair and replacement of Exclusive Common Area shall be a Neighborhood Expense assessed as a Neighborhood Assessment against the Lots within the Neighborhood(s) to which the Exclusive Common Area is assigned.

If, in the discretion of the Declarant, and as long as Declarant owns any property described in Exhibits "A" or "B," the Association fails to perform its maintenance responsibilities or enforce the maintenance responsibilities of Owners in the manner required by the Declaration, Declarant may cause such maintenance to be performed and, in such event, the Association shall reimburse Declarant for all costs incurred. Declarant shall not take such action without first providing the Association written notice and a reasonable opportunity to perform the required maintenance.

5.2. Owner's Responsibility. Each Owner shall maintain his or her Lot, Dwelling Unit, and all other structures, parking areas, landscaping, and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants, the Design Guidelines and the Use Restrictions, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

Each Owner shall be responsible for maintaining and repairing any sidewalk adjacent to any portion of his or her Lot in accordance with the Community-Wide Standard. In the event an Owner fails to maintain or repair the sidewalk adjacent to his or her Lot, the Association may, but shall not be obligated to, take any enforcement action provided in this Declaration, including levying Benefited Assessments.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 10.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

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

All maintenance required of a Neighborhood Association under this Declaration or any additional covenants or agreements shall be performed consistent with the Community-Wide Standard. If any Neighborhood Association fails to perform such maintenance, the Association may perform it and assess the costs against all Lots within such Neighborhood as provided in Section 10.7.

5.4. Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, painting, plant replacement, weeding, and trimming, as the Board may determine to be necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, as determined by the Board.

Portions of the Properties are environmentally sensitive and/or may provide greater aesthetic value than other portions of the Properties. The Board or the Declarant, as long as it owns any property described in Exhibits "A" or "B," may establish a higher Community-Wide Standard for such areas and require additional maintenance for such areas to reflect the nature of such property.

Notwithstanding anything to the contrary contained herein, neither the Association, any Owner, nor any Neighborhood Association shall be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.5. Party Walls and Party Fences Each wall and fence built by the Declarant or a Builder as part of the original construction on any Lot:

(a) any part of which is built upon or straddling the boundary line between two adjoining Lots or between a Lot and the Common Area; or

(b) which is constructed within five feet of the boundary line between adjoining Lots, between a Lot and the Common Area, between a Lot and any public street or other property not subject to this Declaration, or between the Common Area and any public street or other property not subject to this Declaration, has no windows or doors, and is intended to serve as a privacy wall; or

(c) which, in the reasonable determination of the Board, otherwise serves and/or separates two adjoining Lots or a Lot and the Common Area, regardless of whether constructed wholly within the boundaries of one Lot;

shall constitute a party wall or party fence (herein referred to as a "party structure").

The Owners of any Lot served by a party structure shall own that portion of the party structure lying within the boundaries of such Owner's Lot and shall have an easement for use and enjoyment and, if needed, for support, in that portion, if any, of the party structure lying within the boundaries of the property adjoining his or her Lot. Each Owner shall be responsible for maintaining

property insurance, as more particularly provided in Section 6.3, providing coverage for that portion of any party structure lying within the boundaries of such Owner's Lot and shall be entitled to all insurance proceeds paid under such policy on account of any insured loss.

With respect to a party structure between Lots, the responsibility for the repair and maintenance of the party structure and the reasonable cost thereof shall be shared equally by the adjoining Lot Owners; provided, however, any damage to a party structure resulting solely from the actions of any Owner shall be repaired at the sole cost of such Owner. To the extent damage to a party structure from fire, water, soil settlement, or other casualty is not repaired out of the proceeds of insurance, any affected Owner may restore it. If other Owners thereafter benefit from the party structure, they shall contribute to the restoration cost in equal shares without prejudice to any Owner's right to larger contributions from other users under any rule of law. Any Owner's right to contribution from another Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

Any disputes between Owners with respect to maintenance or repairs of party structures shall be resolved in accordance with the procedures set forth in Article XVII.

With respect to party structures between Lots and Common Area, between Lots and any public street, and between Lots and other property not subject to this Declaration, the Association shall be responsible for all maintenance and repair thereof, subject to the provisions of Section 10.7(b), except that an Owner shall be responsible for painting and making cosmetic repairs to the portion of the party structure, other than an Unofficial Document wrought iron comprising such party structure, facing his or her Lot. The Association shall be responsible for all maintenance and repair, including painting and cosmetic repairs, of all wrought iron comprising such party structures. The Association shall have an easement over any affected Lot to perform its maintenance responsibilities hereunder. Notwithstanding the above, unless otherwise agreed upon with the owner of property which is not subject to this Declaration, the Association shall maintain that portion of any party structure facing such property.

With respect to any party structure between Common Area and any public street or other property which is not subject to this Declaration, unless otherwise agreed upon with the owner of such property, the Association shall be solely responsible for maintaining and repairing such party structures.

The costs incurred by the Association in maintaining and repairing party structures pursuant to this Section shall be a Common Expense allocated among all Lots as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from any Owner deemed to have caused the condition in need of repair pursuant to this Declaration, other recorded covenants, or agreements with such Persons.

Notwithstanding the above, no Owner may remove a party structure or make structural or design changes to a party structure without first complying with the requirements set forth in Article XI and gaining the approval of all Owners of affected Lots.

This Section 5.5 shall not apply to any party structure which separates the interiors of adjoining Dwelling Units. The rights of the Owners of adjoining Dwelling Units with regard to such party structures shall be governed by plats showing the boundaries of each of the adjoining Dwelling Units, and any specific covenants, conditions, and restrictions recorded with respect to such Dwelling Units.

Article VI

INSURANCE AND CASUALTY LOSSES

6.1. **Association Insurance.** The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect, the following types and amounts of insurance, if available at a reasonable cost, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(a) Blanket property insurance covering risks of physical loss on an "all-risk" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair, Unofficial Document replacement in the event of a casualty. If such coverage is not available at a reasonable cost, then "broad form named perils" coverage may be substituted. Such insurance shall include coverage for flood and earth movement to the extent that such insurance is reasonably available.

In addition, the Association may, upon request of a Neighborhood Association, and shall, if so specified in a Supplemental Declaration applicable to the Neighborhood Association, obtain and continue in effect property insurance covering risks of physical loss on an "all risk" basis for insurable improvements in the Neighborhood; provided, the Association shall not be obligated to provide property insurance coverage for any Lot or Dwelling Unit, or the contents thereof. If such coverage is not available at a reasonable cost, then "broad form named perils" coverage may be substituted.

All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full insurable replacement cost of the insured property. Costs of property insurance obtained by the Association on the behalf of a Neighborhood shall be charged to the Owners of Lots within the benefitted Neighborhood as a Neighborhood Assessment;

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf and including coverage for owned and non-owned automobile liability. If generally available at reasonable

cost, the commercial general liability insurance shall have a limit of at least \$5,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost, and such additional coverage and higher limits would be obtained by a reasonably prudent person, the Association shall obtain the same. Notwithstanding the above, if the required limits are not available at a reasonable cost, lower limits, as determined in the Board's business judgment, may be obtained;

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

(d) Directors and officers liability insurance or equivalent association liability insurance at limits determined in the Board's business judgment;

(e) Commercial crime insurance, including employee fidelity insurance, in an amount determined in the business judgment of the Board; provided, the amount of any employee fidelity insurance shall not be less than one-sixth of the annual Base Assessments on all Lots plus reserves on hand. Such commercial crime insurance shall cover funds held by the Association's management company, unless such management company's insurance insures the Association against crimes committed by or against such management company. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(f) Such additional insurance as the Board, in its business judgment, determines advisable, which may include, without limit, Unofficial Document employee benefits liability insurance, boiler and machinery insurance, and building ordinance insurance.

6.2. Association Policy Requirements. Prior to the renewal of any insurance policy and at least annually, the Association shall arrange for a review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be familiar with insurable replacement costs in the Maricopa County, Arizona, area.

Except as otherwise provided in Section 6.1 with respect to property within a Neighborhood, premiums for all insurance on the Area of Common Responsibility shall be a Common Expense and shall be included in the Base Assessment. However, premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefitted unless the Board reasonably determines that other treatment of the premiums is more appropriate.

The policies may contain a reasonable deductible as determined by the Board and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result

of the negligence or willful conduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots in accordance with Section 10.7.

(a) All insurance coverage shall be written by insurance companies licensed to do business in the State of Arizona and having a rating at A- or better in the financial category as established by A.M. Best's Insurance Reports. The Board may make exceptions to this requirement in the event that coverage is not reasonably available from such a company or if the Board, in its business judgment, elects to obtain insurance through a similarly reputable, but not rated company.

(b) All insurance coverage obtained under Section 6.1(a) shall:

(i) Be written with a company authorized to do business in the State of Arizona which satisfies the requirements of the Federal National Mortgage Association or such other secondary mortgage market agencies or federal agencies as the Board requires;

(ii) Be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Area shall be for the benefit of the Association and its Members. Insurance coverage secured on behalf of a Neighborhood shall be for the benefit of the Neighborhood Association, if any, the Owners of Lots within the Neighborhood, and their Mortgagees, as their interests may appear;

(iii) Not be brought in Unofficial Document contribution with insurance purchased by individual Owners, occupants, or their Mortgagees;

(iv) Include an agreed amount endorsement if the policy contains a co-insurance clause; and

(v) Contain replacement cost coverage.

(c) In addition, the Board shall secure, if reasonably available and as applicable, insurance policies providing the following:

(i) A waiver of subrogation as to any claims against the Association, the Association's Board, officers, employees, and its manager and the Owners;

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

(iii) An endorsement preventing the Association's insurance carrier from invoking its "other insurance" clause to obtain any contribution from any insurance maintained by individual Owners;

- (iv) An endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;
- (v) A cross liability provision;
- (vi) A provision vesting the Board with exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss; and
- (vii) A provision listing the Lot Owners as additional insureds under the policy.

6.3. Owner's Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full insurable replacement cost on all improvements on any Lot owned, less a reasonable deductible, unless either the Association carries such insurance (which they are not obligated to do hereunder) or a Neighborhood Association having jurisdiction over the Lot(s) carries such insurance.

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

Additional recorded covenants applicable to any Neighborhood may establish more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lots within such Neighborhood and the standards for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

6.4. Damage and Destruction.

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

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless at least 75% of the total Class "A" Members and the Declarant, as long as the Declarant owns any property described in Exhibits "A" and "B" of the Declaration, decide within 60 days after the loss not to repair or reconstruct.

Any damage to or destruction of the common property of any Neighborhood Association shall be repaired or reconstructed unless the Owners representing at least 75% of the total vote of the Neighborhood Association decide within 60 days after the damage or destruction not to repair or reconstruct. If the Neighborhood Association's covenants, if any, require the vote of a greater percentage of Owners within the Neighborhood, then such provision shall control.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60 day period, then the period shall be extended for not more than 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area or common property of a Neighborhood Association shall be repaired or reconstructed.

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

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

6.6. Repair and Reconstruction. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Benefitted Assessments against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1.

Article VII **NO PARTITION**

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof without the written consent of all Owners and Mortgagees.

Article VIII
CONDEMNATION

Whenever any part of the Common Area shall be taken or conveyed under threat of condemnation by any authority having the power of eminent domain, the Board shall determine, in the exercise of its business judgment, whether each Owner shall be entitled to notice thereof. The Board may convey Common Area under threat of condemnation only if approved in writing by at least 67% of the Class "A" Members in the Association and Declarant, as long as Declarant owns any property described in Exhibits "A" or "B."

The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within 60 days after such taking, the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and at least 67% of the total Class "A" Members in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Sections 6.5 and 6.6 regarding funds for the repair of damage or destruction shall apply.

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

Article IX
ANNEXATION AND WITHDRAWAL OF PROPERTY

9.1. Annexation Without Approval of Membership. Declarant may unilaterally subject to the provisions of this Declaration all or portions of the real property described in Exhibit "B" until all property described in Exhibit "B" has been subjected to this Declaration or 50 years after the recording of this Declaration, whichever is earlier. Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant. Nothing in this Declaration shall be construed to require the Declarant to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Office of the County Recorder describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of the

Members but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

9.2. Annexation With Approval of Membership. The Association or the Declarant, at any time, may subject any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of at least 67% of the Class "A" Members at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Office of the County Recorder describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon filing unless otherwise provided therein.

9.3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right unilaterally to annex additional property pursuant to this Article, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Declarant, its affiliates, or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Properties. If the property so removed is Unofficial Document the Association, the Association shall convey such property to the Declarant upon the request of the Declarant. Notwithstanding the above, any withdrawal resulting from changes in the Declarant's plans for development of the Properties shall not materially adversely affect the overall, uniform scheme of development for the Properties.

9.4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after this Declaration or the annexation of the subject property, as applicable, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

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

9.6. Condominium Conversion. In the event that any property now or hereafter used for rental apartments, and which is subject to a Covenant to Share Costs, is converted to a condominium in accordance with the Arizona Condominium Act, A.R.S. §§33-1201 to 33-1270, and if such property is entitled to be withdrawn from such Covenant to Share Costs, the owner of such

property may subject it to the provisions of this Declaration. Such property shall be subjected to this Declaration only by recording, within 180 days of the withdrawal of such property from the Covenant to Share Costs, a Supplemental Declaration specifically submitting the property to the terms of this Declaration. Except as provided by law, the Supplemental Declaration shall be superior in priority to all encumbrances recorded after the date of recording of this Declaration. Such Supplemental Declaration shall not require the consent of the Association, but shall require the written acknowledgment of an officer of the Association. In addition, the Declarant's prior written consent shall be necessary so long as it owns any property described in Exhibits "A" or "B." Upon the effective date of such Supplemental Declaration, any property thereby subjected to the Declaration shall be divided into Lots and assigned voting rights and assessment liability in accordance with the terms of this Declaration.

Article X **ASSESSMENTS**

10.1. Creation of Assessments. The Association may levy assessments against each Lot for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; (b) Neighborhood Assessments for Neighborhood Expenses benefiting only Lots within a particular Neighborhood or Neighborhoods; (c) Special Assessments as described in Section 10.6; and (d) Benefitted Assessments as described in Section 10.7. Each Owner, by accepting a deed or Unofficial Document to a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest from the due date of such assessment at a rate determined by the Association, late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment is levied until paid, as more particularly provided in Section 10.10, and shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally personally liable with the grantor for any assessments and other charges accrued at the time of conveyance; provided, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and by such dates as the Board may establish. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment for each Lot for the next succeeding 12-month period shall be due and payable in advance on the date that the Owner of such Lot first obtains title to the Lot ("closing date") and thereafter on each annual anniversary of the closing date. If the Owner of the Lot is comprised of more than one Person and such Persons did not obtain title to the Lot on the same date, the Board, in its sole discretion, shall set the due date for payment of assessments for such Lot. The amount of the assessment for each such 12-month period shall be the per Lot assessment established under the budget in effect on the

closing date or subject anniversary date, as applicable. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Association shall, upon written request from an Owner, Mortgagee, or other Person designated by the Owner, furnish a certificate, in recordable form, signed by an officer of the Association setting forth whether assessments for such Owner's Lot have been paid and any delinquent amount. Such certificate shall be binding upon the Association, the Board, and the Owners. If the Association fails to provide such certificate within seven business days of its receipt of a request, any lien for unpaid assessments then due shall be extinguished. . The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

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

10.2. Declarant's Obligation for Assessments.

(a) Payment of the "Shortage". Until 50% of the Maximum Lots have been conveyed to Class "A" Members, Declarant shall not be ^{Unofficial Document} obligated to pay assessments on its unsold Lots, but, instead, shall be obligated to pay the "shortage" (i.e., operating deficit) for each fiscal year. A "shortage" shall exist if Income and Revenues (as defined below) for a particular fiscal year are less than Expenditures (as defined below) incurred for the same fiscal year. Income and Revenues and Expenditures are to be calculated using the accrual basis of accounting.

(i) Income and Revenues are: the amount of all income and revenue of any kind earned by the Association during the subject fiscal year, including, but not limited to, assessments, use fees, subsidies (if any) provided by Declarant, and income from all other sources. For purposes of this Section 10.2, assessments for each Lot are deemed earned on the annual anniversary date of the commencement of assessments with respect to such Lot.

(ii) Expenditures are: the amount of all actual operating expenses incurred, or obligated for, by the Association during the subject fiscal year, including without limitation (A) any reserve contributions for such year, and (B) any budgeted or approved non-budgeted capital assets acquired during the fiscal year, but excluding (1) all non-cash expenses such as depreciation or amortization, (2) expenditures for or purchase of non-budgeted, non-approved items, and (3) all expenditures made from reserve funds. For purposes of this paragraph (ii), "approved" shall mean prior written approval of the Declarant.

(iii) Any shortage in a particular fiscal year is to be offset by any surplus from a previous fiscal year. A surplus is achieved when, using an accrual basis of accounting, Income and Revenues for a particular fiscal year exceed Expenditures for the same fiscal year.

(b) Timing of Payment. The shortage payment shall be made after receipt of the annual financial statement audit. Such audit shall be performed by an independent public accounting firm selected by the Board and, approved by the Declarant. The Declarant shall pay the shortage within 30 days after receipt of the audit report. Payment of the shortage shall exempt the Declarant from payment of Base, Neighborhood, Special, or Benefitted Assessments.

(c) Option to Pay "Shortage". After 50% of the Maximum Lots have been conveyed to Class "A" Members, Declarant may annually elect either to pay assessments on each of its unsold Lots or to pay the shortage for such fiscal year. The Declarant's election may be made separately with respect to Base Assessments and Neighborhood Assessments. If the Declarant elects to pay assessments on each Lot and, after such payment, a shortage exists, Declarant may, but shall not be obligated to, pay such shortage. Unless the Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

(d) Subsidies/"In Kind" Contribution. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses. The Declarant's payment of ^{Unofficial Document}assessments may be reduced or abated by the agreed value of any such services or materials provided by Declarant, in accordance with any such contract or agreement with the Association.

The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any other amounts paid under this Section 10.2). Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of a subsidy in any year shall not obligate the Declarant to continue payment of such subsidy in future years.

10.3. Computation of Base Assessment. Each year, a budget shall be prepared covering the Common Expenses estimated to be incurred during the coming year. The budget shall include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 10.5, but shall not include expenses incurred by the Declarant for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs, unless approved by a majority of the total Class "A" Members.

The Base Assessment shall be levied equally against all Lots subject to assessment. The Base Assessment shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including contributions to reserves. In determining the level of assessments, the Board, in its discretion, may consider sources of funds

available to the Association other than assessments. In addition, the Board may take into account (a) the number of Lots subject to assessment on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year; (b) the projected budget for the Association at such time as the Maximum Lots are owned by Class "A" Members; and (c) projected budgets for the Association at other future times in the development of Sun City Grand, based on the number of Lots projected to be subject to assessment at such time.

Not less than 30 days prior to the beginning of the fiscal year, the Board shall notify the Members (a) of the amount of the Base Assessment for the following year, and (b) that the budget is available for examination by Members at the business office of the Association or at another suitable location within Sun City Grand. The Board's notice obligations under this Section shall be satisfied by providing notice in any manner which is reasonably designed to provide notice to the Members. By way of example, the Board may post written notice in one or more prominent places within Sun City Grand and/or publish such information in any newsletter or other publication with community-wide distribution (provided, there shall be no obligation to produce such a publication). If any Member requests a copy of the budget, the Association shall provide one copy to the Member without charge. Such copy shall be delivered personally or by first-class United States Mail within 10 days of such request. The Association may charge a fee for additional copies of the budget, which fee shall not exceed the cost of reproduction and delivery.

The budget shall become effective unless (a) disapproved at a meeting by the vote of at least a majority of the Class "A" Members and (b) disapproved by the Class "B" Member, if any. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Class "A" Members requesting that such a special meeting be held, as provided in the By-Laws. Such petition must be presented to the Board within 10 days of posting or publishing of notice of the availability of the budget for examination or, if notice is otherwise provided, within 10 days of delivery of the notice (as defined in the By-Laws with respect to notice of meetings). If the proposed budget is disapproved, or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined, the budget in effect for the immediately preceding year shall continue for the current year.

10.4. Computation of Neighborhood Assessments. Each year, a separate budget shall be prepared by the Association for each Neighborhood covering the estimated Neighborhood Expenses, if any, expected to be incurred on behalf of such Neighborhood during the coming year. The Board shall be entitled to adopt such budget only to the extent that (a) this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment, or (b) the Association expects to incur expenses to provide additional services for a Neighborhood. Any Neighborhood may request that additional services or an increased level of services be provided by the Association, and in such case, if the Association agrees to provide such services, any additional costs shall be added to such budget. The Association may charge a reasonable administrative fee for the preparation and administration of the budget in connection with any Neighborhood. Such budget shall include a reserve contribution establishing a fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood.

Neighborhood Expenses shall be levied as a Neighborhood Assessment against all Lots within the benefitted Neighborhood and shall be allocated equally among those Lots. If specified in the Supplemental Declaration applicable to such Neighborhood or if directed by a petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of Dwelling Units or other structures, insurance on Dwelling Units or other structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefitted Lots in proportion to the benefit received. Such proportion shall be specified in the Supplemental Declaration applicable to such Neighborhood, or if not so specified, shall be approved by a majority of the Owners within the Neighborhood, and Declarant, as long as Declarant owns any property within such Neighborhood.

The Board shall make reasonably available for examination by all Owners of Lots within the particular Neighborhood a copy of such budget and notice of the amount of the Neighborhood Assessment for the coming year, in the same manner as provided for the Common Expense budget discussed in Section 10.3 above. The budget relating to any Neighborhood shall become effective unless disapproved at a meeting by at least a majority of the Class "A" Members owning Lots within such Neighborhood and the Class "B" Member, if any, if the Class "B" Member is the owner of any Lots in such Neighborhood. There shall be no obligation to call a meeting for the purposes of considering the Neighborhood budget except on petition of Class "A" Members representing at least 10% of the votes in such Neighborhood.

The right to disapprove shall apply to those line items in the Neighborhood budget which are attributable to future services requested by the Neighborhood. In the event any line item in a Neighborhood budget is disapproved, the Association shall not be obligated to provide the services anticipated to be funded by such line item of the budget, and the budget shall be revised to delete such line item. In the event the Board fails for any reason to adopt the Neighborhood budget for any year, then and until such time as such budget shall have been adopted, the Neighborhood budget in effect for the immediately preceding year shall continue for the current year.

10.5. Capital Expenditures Budget and Reserve Funds. On an annual basis, capital expenditures budgets shall be prepared by the Association for both general and Neighborhood purposes, which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of each asset. Such capital expenditures budgets may also anticipate making additional capital improvements and purchasing additional capital assets. Base Assessments and Neighborhood Assessments shall include capital expenditures contributions in amounts sufficient to meet these projected needs which contributions shall be held in a reserve fund for such purposes. The capital expenditures budgets shall be made reasonably available for examination by the Members in the manner provided for the Common Expense budget discussed in Section 10.3 above.

The Board may adopt resolutions regarding the expenditure of reserve funds, including policies designating the nature of assets for which reserve funds may be expended. Such policies may differ for general Association purposes and for each Neighborhood. So long as the Declarant owns any property described in Exhibits "A" or "B," neither the Association nor the Board shall adopt, modify, limit or expand such policies without the Declarant's prior written consent.

10.6. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted subject to the limitations set forth in Section 10.8. Such Special Assessment may be levied against the entire membership, if for Common Expenses, or against the Lots within any Neighborhood, if for Neighborhood Expenses. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

10.7. Benefitted Assessments. The Board may levy Benefitted Assessments against particular Lots for expenses incurred or to be incurred by the Association, as follows:

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

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

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

10.8. Limitation on Increases of Assessments. Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations or to reimburse the Association pursuant to Section 10.7, the Board may not impose a Base Assessment, Neighborhood Assessment, or Benefitted Assessment that is more than 15% greater than each of those assessments for the immediately preceding fiscal year nor impose a Special Assessment which in the aggregate

exceeds 5% of the budgeted Common Expenses or Neighborhood Expenses, as the case may be, for the current fiscal year, without a majority vote of a quorum of Members who own the Lots which are subject to the applicable assessment at a meeting of the Association.

For purposes of this Section, "quorum" means more than 50% of the voting power held by Members who own the Lots which are subject to the applicable assessment. In addition, the term "Base Assessment" or "Neighborhood Assessment" shall be deemed to include the amount assessed against each Lot plus a pro rata allocation of any amounts the Association received through any subsidy or maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased.

An emergency situation is any one of the following:

- (a) an extraordinary expense required by an order of a court;
- (b) an extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible where a threat to personal safety on the Properties is discovered; or
- (c) an extraordinary expense necessary to repair or maintain the Properties or any part of them for which the Association is responsible which could not have been reasonably foreseen by the Board in preparing and distributing the pro forma budget pursuant to Section 10.3. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Notice of such resolution shall be provided to the Members along with the notice of such assessment.

10.9. Date of Commencement of Assessments. Subject to Section 10.2, the obligation to pay the assessments provided for herein shall commence as to any Lot on the first day of the month following (a) the date the Lot is made subject to this Declaration, or (b) the date the Board first determines a budget and levies assessments pursuant to this Article, whichever is later.

10.10. Lien for Assessments. All assessments and other charges of the Association authorized in this Article or elsewhere in this Declaration shall constitute a lien against the Lot against which they are levied from the time such assessments or charges become delinquent until paid. The lien shall also secure payment of interest (subject to the limitations of Arizona law), late charges (subject to the limitations of Arizona law), and costs of collection (including attorneys' fees, lien fees and administrative costs). Such lien shall be superior to all other liens, except those deemed by Arizona law to be superior. The lien created by this Article shall have priority over any lien for assessments asserted by any other community or property owners association, including, without limitation, any Neighborhood Association. The Association may enforce such lien, when any assessment or other charge is delinquent, by suit, judgment, and foreclosure; provided, if enforcement proceedings are not instituted within one year after the full amount of the assessment or other charge becomes due, the lien (but not the personal obligation of the subject Owner) shall be deemed extinguished.

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

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any assessment installments accrued prior to such foreclosure. The subsequent Owner of the foreclosed Lot shall not be personally liable for assessments on such Lot which accrued prior to such acquisition of title.

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

10.12. Exempt Property. The ^{Unofficial Document} property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Common Area;
- (b) all property dedicated to and accepted by any governmental authority or public utility; and
- (c) all property owned and maintained by a Neighborhood Association (or by the members of a Neighborhood Association as tenants-in-common) exclusively for the common use and enjoyment of its members.

In addition, to encourage the existence of such entities and to support their presence within the Properties, the Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

Article XI
ARCHITECTURAL AND DESIGN STANDARDS

11.1. **General.** No improvements (including staking, clearing, excavation, grading and other site work), exterior alteration of existing improvements (including painting), placement or posting of any object or thing on the exterior of any Lot, Dwelling Unit, other structure or the Common Area (e.g., fences, signs, flags, banners, antennae, clotheslines, playground equipment, lighting, pools, temporary structures, and artificial vegetation), planting or removal of landscaping materials, or installation or removal of an irrigation system shall take place except in compliance with this Article, this Declaration, the Use Restrictions, and the Design Guidelines and with the approval of the appropriate Reviewing Body under Section 11.2.

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

This Article shall not apply to the activities of the Declarant but shall apply to any and all improvements to the Common Area by or on behalf of the Association. Nothing contained herein or in any other provision of any of the Governing Documents shall be construed to prevent the erection or maintenance by Declarant or its duly authorized agents of structures, improvements, flags, banners, signs, or any other object or thing necessary or convenient to the development or sale of the Properties.

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

11.2. **Architectural and Design Review.**

(a) **New Construction.** Until 100% of the Maximum Lots have been developed and conveyed to Class "A" Members, the Declarant shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for original construction within the Properties. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Declarant may assign its rights hereunder in whole or in part, at any time, to the Architectural Review Committee ("ARC")."

(b) **Architectural Review Committee; Modifications.** Prior to the sale of the first Lot to a Class "A" Member, the Board shall establish the ARC, which shall consist of at least three Persons. Members of the ARC shall be appointed and shall serve at the discretion of the Board; provided, however, as long as the Declarant owns any property described in Exhibits "A" or "B," it shall be entitled to appoint one member of the ARC.

The ARC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures or on or to Lots containing Dwelling Units (including, without limitation, the initial landscaping on a Lot), the adjacent open space, and Common Area; provided, however, any change to the Common Area shall require the approval of the Declarant as long as it owns any property described in Exhibits "A" or "B." Subject to the Declarant's rights under Section 11.2(a) above, the ARC also may be assigned jurisdiction over original construction within the Properties. As long as Declarant owns any property described in Exhibits "A" or "B," the ARC shall notify the Declarant of any action taken under this Article XI. During such time, the Declarant shall have the right in its sole and absolute discretion, to veto any action taken by the ARC; provided, the Declarant's right to veto must be exercised within 30 days of its receipt of notice of action taken by the ARC. The party submitting the Plans for approval shall not be notified of the ARC's approval or disapproval until after Declarant's right to veto has been exercised or has expired.

The Board, with the approval of the Declarant for so long as the Declarant owns any property described in Exhibits "A" or "B," may create and appoint such subcommittees of the ARC as deemed appropriate. Such subcommittees may be established to preside over particular areas of review (e.g., landscape plans) and shall be governed by such procedures as may be established by the ARC or the Board. Any action of any subcommittee shall be subject to the review and approval of the ARC and the Declarant, for as long as the Declarant owns any property described in Exhibits "A" or "B." Notwithstanding the above, neither the ARC nor the Declarant shall be obligated to review all actions of any subcommittees and the failure to take action in any instance shall not be a waiver of the right of the ARC or the Declarant to act in the future.

For purposes of this Article, "Reviewing Body" shall refer to either the Declarant, the ARC, or any subcommittee of the ARC, as appropriate under the circumstances. The Reviewing Body may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

11.3. Guidelines and Procedures. The Declarant shall prepare Design Guidelines which shall apply to all construction activities within the Properties, except as provided in Section 11.1. The Declarant shall have sole and full authority to supplement and amend the Design Guidelines as long as it owns property described in Exhibits "A" or "B." Thereafter, the ARC shall have the authority to supplement and amend the Design Guidelines, with the consent of the Board.

The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon location, unique characteristics, intended use, the Master Plans, and any other applicable zoning ordinances. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern in considering applications hereunder. The Design Guidelines shall not be the exclusive basis for decisions of the Reviewing Body and compliance with the Design Guidelines shall not guarantee approval of any application.

Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines. The Design Guidelines may be amended to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

All structures and improvements constructed upon a Lot shall be constructed in strict compliance with the Design Guidelines in effect at the time the plans for such improvements are submitted to and approved by the Reviewing Body, unless the Reviewing Body has granted a variance in writing pursuant to Section 11.6. So long as the Reviewing Body has acted in good faith, and subject to the Declarant's veto power described in Section 11.2, its findings and conclusions with respect to appropriateness of, applicability of, or compliance with the Design Guidelines and this Declaration shall be final.

The Association shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties and all such Persons shall conduct their activities in accordance with such Design Guidelines.

11.4. Submission of Plans and Specifications.

(a) Prior to commencing ^{an}unofficial Document^{ty} within the scope of Section 11.1, an Owner shall submit an application for approval of the proposed work to the appropriate Reviewing Body. Such application shall be in the form required by the Reviewing Body and shall include such information as required under the Design Guidelines, such as Plans showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor, and other features of proposed construction, as applicable. The Design Guidelines shall set forth the procedure and any additional information for submission of the Plans. Before the Owner may begin the proposed activity, the application must be approved by the Reviewing Body (and Declarant's veto rights set forth in Section 11.2 exercised or expired) in accordance with the procedures described below.

(b) In reviewing each submission, the Reviewing Body may consider quality of workmanship and design, visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life. The Reviewing Body may require relocation of native plants within the construction site, the installation of an irrigation system for the landscaping, or the inclusion of natural plant life on the Lot as a condition of approval of any submission.

Approval by the Reviewing Body shall not constitute approval of or waiver of approvals or reviews required by the City of Surprise, Arizona, or any other governmental agency or entity having jurisdiction over architectural or construction matters. The Reviewing Body shall not require permits or other approvals by local government entities other than those issued by such entities in the usual course of business.

The Reviewing Body shall, within the period specified in the Design Guidelines, advise the party submitting the Plans, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by the Reviewing Body to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines, the reasons for such finding, and suggestions, if appropriate, for the curing of such objections. In the event the Reviewing Body fails to advise the submitting party by written notice within the period specified in the Design Guidelines of either the approval or disapproval and suggestions for curing the objections of the committee of the Plans, approval shall be deemed to have been given. Notice (for purposes of this Section 11.4(b) only) shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the submitting party.

(c) The Reviewing Body, as part of the Plan approval, may require that construction in accordance with approved Plans be commenced within a specified time period. In such event, if construction does not commence in a timely manner, then such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the Reviewing Body for reconsideration. If construction is not completed on a project for which Plans have been approved within the period, if any, set forth in the Design Guidelines or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Article.

11.5. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Reviewing Body will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

11.6. Variance. The Reviewing Body may authorize variances in writing from its guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations, (b) when unique circumstances dictate, such as unusual topography, natural obstructions, hardship or aesthetic or environmental considerations, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. Inability to obtain, or the terms of, any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance. Notwithstanding the above, the ARC may not authorize variances without the written consent of the Declarant, as long as it owns any portion of the Properties or has a right to annex any property described in Exhibit "B."

11.7. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the Declarant, the Association, its officers, the Board, the ARC, the Association's management agent, or any member of the foregoing, shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, its officers, the Board, the ARC, the Association's management agent, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the ARC and its members shall be defended and indemnified by the Association as provided in the By-Laws.

11.8. Enforcement. Any construction, alteration or other work done in violation of this Article or the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Association, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the Association or restore the property, Lot and/or Dwelling Unit to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Association or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the rate established by the Board (not to exceed the maximum rate then allowed by law), may be assessed against the benefitted Lot and collected as a Benefitted Assessment unless otherwise prohibited in this Declaration. Unofficial Document

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline set forth in the approval, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Benefitted Assessment unless otherwise prohibited in this Declaration.

All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Declarant, the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

The Association shall be primarily responsible for enforcement of this Article XI. If, however, in the discretion of the Declarant, the Association fails to take appropriate enforcement action, as authorized herein, within a reasonable time period, the Declarant, for so long as it owns any property described in Exhibits "A" or "B" to this Declaration, may, but shall not be obligated to, exercise enforcement rights in the same manner as set forth above. In addition to the foregoing, the Association and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Reviewing Body.

11.9. Architectural Review Over Adjacent Properties. The Declarant, in its discretion, may assign to the ARC responsibility for reviewing plans for proposed construction or modifications on properties adjacent to or in the vicinity of Sun City Grand which are subject to restrictive covenants imposed by the Declarant. In such event, the ARC may charge reasonable fees for review and shall conduct any such review pursuant to any relevant provisions of such restrictive covenants and any design guidelines pertaining to the subject properties. The ARC shall have no authority over construction or modifications on such properties unless and until designated by the Declarant in writing. The Declarant's rights under such restrictive covenants may be assigned to the Association, which shall be obligated to accept and abide by the terms of such assignment.

Article XII

USE RESTRICTIONS

12.1. Plan of Development; Authority; Effect. Declarant has established a general plan of development for the Properties as a master planned community in order to protect all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within Sun City Grand. The Properties are subject to the land development, architectural, and design provisions described in Article XI, the other provisions of this Declaration governing individual conduct, and uses of or actions upon the Properties, and the guidelines, rules, and restrictions promulgated pursuant to this Article, including the Initial Use Restrictions attached hereto as Exhibit "C," as each may be amended from time to time, all of which establish affirmative and negative covenants, easements, and restrictions on the Properties.

Except as otherwise expressly provided herein, all provisions of this Declaration and any rules shall apply to all Owners, occupants, tenants, guests, and invitees of any Lot. Any lease on any Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of the Governing Documents.

12.2. Authority to Promulgate Use Restrictions and Rules.

(a) Subject to the terms of this Article and in accordance with its duty of care and undivided loyalty to the Association and its Members, the Board may amend the Use Restrictions and

may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions then in effect. Notice of any such proposed action shall be posted in a prominent place within the Properties or published in the Association's newsletter, if any, at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Any such action shall become effective after compliance with subsection (c) of this Section unless disapproved at a meeting by at least 67% of the total Class "A" Members and by the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B," or by the Declarant, acting independently, during such period. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition of the Members as required for special meetings in the By-Laws. If a meeting to consider disapproval is requested by the Members prior to the effective date of such action, the action may not become effective until after such meeting is held.

(b) Alternatively, the Class "A" Members, at a meeting duly called for such purpose, may amend the Use Restrictions or adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and previously adopted rules by a vote of at least 67% of the total Class "A" Members and the approval of the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B."

(c) At least 30 days prior to the effective date of any action under subsections (a) or (b) of this Section, a copy of the amendment, specifying the effective date, shall be posted in a prominent place within the Properties or published in the Association's newsletter, if any. The Association shall provide, without cost, a copy of the Use Restrictions and rules then in effect to any requesting Member or Mortgagee.

(d) Nothing in this Article shall authorize the Board or the Members to modify, repeal, or expand the Declaration (with the exception of Exhibit "C"), the By-Laws, the Articles or the Design Guidelines. Such documents may be amended only as provided therein.

12.3. Owners' Acknowledgment. All Owners are subject to the Use Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, (b) the Board and/or the Members may amend the Use Restrictions or adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions in accordance with Sections 12.2 and 18.2, and (c) the Declarant may amend the Use Restrictions or other portions of this Declaration under Section 18.2.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Restrictions and rules may change from time to time.

12.4. Rights of Owners. Except as may be specifically set forth in the Initial Use Restrictions, neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) Similar Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Speech. The rights of Owners and occupants to display on their Lot political signs and political symbols of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods in individually owned property shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating signs and symbols which are visible from outside the Lot.

(c) Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating displays which are visible from outside the Lot.

(d) Household Composition. No rule shall interfere with the freedom of occupants of Dwelling Units to determine the composition of their households, within the limitations imposed by Section 2.3, except that the Association shall have the power to limit the total number of occupants permitted in each Dwelling Unit on the Official Document of the size and facilities of the Dwelling Unit and its fair share use of the Common Area.

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

(f) Pets. The Association may adopt reasonable rules designed to minimize damage and disturbance to other Owners and occupants, including rules requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on size and facilities of the Lot and fair share use of the Common Area; provided, however, any rule prohibiting the keeping of ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept on the Properties in compliance with the rules in effect prior to the adoption of such rule. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No Owner shall be permitted to raise, breed, or keep animals or poultry of any kind for commercial or business purposes.

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

(h) Alienation. No rule shall prohibit the leasing or transferring of any Lot, or require consent of the Association or Board for leasing or transferring of any Lot; provided, the Association or the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Association (or include specific terms in their leases), and may impose a review or administration fee on the lease or transfer of any Lot.

(i) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop in accordance with the Master Plans, including, but not limited to, the rights of the Declarant as set forth in Article XV.

(j) Abridging Existing Rights. Any rule which would require Owners to dispose of personal property being kept on the Properties shall apply prospectively only and shall not require the removal of any property which was being kept on the Properties prior to the adoption of such rule and which was in compliance with all rules in force at such time unless otherwise required to be removed by law.

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The limitations in this Section 12.4 shall apply to rules only; they shall not apply to amendments to this Declaration adopted in accordance with Section 18.2.

Article XIII

EASEMENTS

13.1. Easements of Encroachment. Declarant reserves unto itself, so long as it owns any property described in Exhibits "A" or "B" of this Declaration, easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with this Declaration) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of the Declarant.

13.2. Easements for Utilities, Etc. Declarant reserves unto itself, so long as it owns any property described in Exhibits "A" or "B" of this Declaration, and grants to the Association an easement for the purpose of access and maintenance upon, across, over, and under all of the

Properties to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewer, meter boxes, telephone, gas, and electricity. The Declarant and/or the Association may assign these rights to any local utility supplier, cable company, security company or other company providing a service or utility to Sun City Grand subject to the limitations herein.

This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement.

Declarant specifically grants to the local utility suppliers easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any utilities be installed or relocated on the Properties, except as approved by the Board or Declarant.

The exercise of this easement by any party other than the Association shall be subject to prior notice to the Association, which shall be permitted to coordinate and supervise access to the Properties by the grantee of the easement. The exercise of the easement also shall not unreasonably interfere with the use of any Lot and, except Unofficial Document agency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

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

13.4. Easements for Golf Courses.

(a) Every Lot, the Common Area, and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Lots, or common property of a Neighborhood Association and for golfers at

reasonable times and in a reasonable manner to come upon the Common Area or common property of a Neighborhood Association to retrieve errant golf balls. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant; the Association or its Members (in their capacity as such); the management company of the Association; any Builder or contractor (in their capacities as such); any officer, director or partner of any of the foregoing, or any officer or director of any partner.

(b) The Properties immediately adjacent to any golf course located on the Common Areas are hereby burdened with a non-exclusive easement for overspray of water, materials used in connection with fertilization, and effluent from any irrigation system serving such golf course. Under no circumstances shall the Association be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

13.5. Easements for Cross-Drainage. Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected property, the Board, and the Declarant as long as it owns any property described in Exhibits "A" or "B" to the Declaration.

13.6. Right of Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot and Dwelling Unit, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association, its Board, officers, or committees, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry into a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner thereof. This easement includes the right to enter any Lot or Dwelling Unit to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but does not authorize entry into any Dwelling Unit without permission of the Owner, except by emergency personnel acting in their official capacities.

13.7. Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot or Dwelling Unit to (a) perform its maintenance responsibilities under Article V, and (b) make inspections to ensure compliance with this Declaration, any Supplemental Declaration, By-Laws, and rules. Except in emergencies, entry into a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

The Association also may enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Declaration, any Supplemental Declaration, the By-Laws, the Design Guidelines, or the rules. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Benefitted Assessment.

13.8. Rights to Surface Water, Groundwater, Stormwater Runoff, Effluent, and Water Stored Underground. Declarant hereby reserves for itself and its designees all rights to surface water which are appurtenant to the Properties, all of which surface water rights are to be consolidated by Declarant for use on golf courses to be constructed within the Properties and for storage in underground storage facilities to be located within the Properties. Declarant further reserves for itself and its designees all rights to groundwater, stormwater runoff, effluent, and water stored in all underground storage facilities located or produced within the Properties. Each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section 13.8 may not be amended without the consent of the Declarant and the reservations made and rights created pursuant to this Section 13.8 shall survive the termination of this Declaration. Neither the Declarant nor any Owner shall be deemed by this reservation, or the consolidation of water rights to be made pursuant to this reservation, to abandon any right to water which is appurtenant to or which may be exercised in connection with the Properties.

13.9. Easements for Lake and Pond Maintenance and Flood Water. Declarant reserves for itself, the Association, and their designees, the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams, and wetlands located within the Area of Common Responsibility to (a) construct, maintain, and repair pumps in order to provide water for the irrigation of any of the Area of Common Responsibility; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any of the lakes, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section.

There is further reserved herein for the benefit of Declarant, the Association, and their designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the Dwelling Units thereon) adjacent to or within one hundred feet of lake beds, ponds, streams and wetlands within the Properties, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, streams, and wetlands within the Area of Common Responsibility subject to the approval of all appropriate regulatory bodies; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams, and wetlands; and (d) enter upon and across such portions of the Properties for the purpose of exercising their rights under this Section. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of the rights granted under such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

Article XIV
MORTGAGEE PROVISIONS

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

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

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

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or Occupant which is not cured within 60 days. Notwithstanding this provision, any holder of a first Mortgage is entitled to written notice Unofficial Document it from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or By-Laws which is not cured within 60 days; or

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

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

14.3. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

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

Article XV
DECLARANT'S RIGHTS

15.1. General. In the event of a conflict between any special right given to Declarant under this Declaration and any other provision of this Declaration, the provision granting such right to the Declarant shall control. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the By-Laws. In addition, any or all of the special rights of the Declarant set forth in this Declaration or the By-Laws, including but not limited to the right to withhold consent to any action of the Association or the Members, may be voluntarily relinquished at any time. No such transfer or voluntary relinquishment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Office of the County Recorder. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

15.2. Master Planned Community. Any Person that acquires any interest in the Properties acknowledges awareness that Sun City Grand is a master planned community, the development of which is likely to extend over many years and recognizes that protesting or otherwise objecting to (a) lawful zoning or changes in zoning or to uses of, or changes in density of, the Properties that are consistent with the Declaration (other than within said Owner's or other Person's Neighborhood), or (b) changes in any concept Unofficial Document master plan for the Properties, including, but not limited to, the Master Plans (other than within said Owner's or other Person's Neighborhood) is not in the collective best interest of the Owners.

15.3. Construction of Improvements. The Declarant and its employees, agents, and designees shall have a right and easement over and upon all of the Common Area for the purpose of making, constructing, installing, modifying, expanding, replacing, and removing such improvements to the Common Area as it deems appropriate in its sole discretion as long as the Declarant owns any property described in Exhibits "A" or "B."

15.4. Models and Sales Offices. So long as construction and sales of Lots by the Declarant and Builders authorized by Declarant shall continue, the Declarant may maintain and carry on upon the Common Area and any property owned by the Declarant or a Builder, as applicable, such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, flags, model units, marketing trails, sales offices, parking, and storage of building materials and equipment. So long as the Declarant is engaged in the marketing and sales of Lots, it shall have the right to reserve parking spaces on the Common Area for the benefit and use of prospective purchasers, Declarant's employees, and others engaged in sales, leasing, maintenance, or management activities. The Declarant and authorized Builders shall have easements for access to and use of such facilities and for performing such activities. The Declarant's or Builder's unilateral

right to use the Common Area for purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Area by Owners unless leased pursuant to a lease agreement with the Association providing for payment of reasonable rent.

15.5. Vacation Villas. The Declarant may, in its discretion, construct residential improvements for temporary residency within or adjacent to the Properties and designate such improvements as "Vacation Villas." Vacation Villas within the Properties shall be considered Dwelling Units and Lots and shall be subject to assessments as provided in Article X. The Declarant may transfer, lease, or lease-back Vacation Villas and make Vacation Villas available for use by guests selected in its discretion. As long as the Declarant owns any property described in Exhibits "A" or "B," or operates any Vacation Villas whether located within or outside of the Properties, the Declarant reserves for itself, and hereby grants to its guests, any temporary resident of any Vacation Villa, and any owner of a Vacation Villa not located in the Properties, a non-exclusive easement for use, access, and enjoyment in and to the Common Area, including but not limited to any recreational facilities within the Common Area to the same extent as enjoyed by Owners under this Declaration; provided, however, temporary residents of Vacation Villas shall not sponsor guests to use the recreational facilities. The Board shall assign Activity Cards to the Declarant on behalf of each Vacation Villa as set forth in Section 2.2(c), for the purpose of exercising such easement. Vacation Villas shall remain Vacation Villas until the Declarant otherwise provides in written notice to the owner of such Vacation Villas and to the Board.

15.6. Equal Treatment. So long as the Declarant owns any property described in Exhibits "A" or "B," neither the Association Unofficial Document Neighborhood Association shall, without the prior written consent of the Declarant, adopt any policy, rule, or procedure that:

- (a) limits the access of the Declarant, its affiliates or their personnel, and/or guests, including visitors, to the Common Area or to any property owned by any of them;
- (b) limits or prevents the Declarant, its affiliates or their personnel from advertising, marketing, or using the Association or the Common Area or any property owned by any of them in promotional materials;
- (c) limits or prevents purchasers of new residential housing constructed by the Declarant, any Builder, their successors, assigns, and/or affiliates in Sun City Grand from becoming members of the Association or enjoying full use of the Common Area, subject to the membership provisions of this Declaration and the By-Laws;
- (d) discriminates against or singles out any group of Members or prospective Members or the Declarant [this provision shall expressly prohibit the establishment of a fee structure (i.e., assessments, Special Assessments and other mandatory fees or charges other than Benefitted Assessments, chartered club dues, and use fees) that discriminates against or singles out any group of Members or the Declarant, but shall not prohibit the establishment of Benefitted Assessments];

(e) impacts the ability of the Declarant or its affiliates to carry out to completion its development plans and related construction activities for Sun City Grand, as such plans are expressed in the Master Plans, as such may be amended and updated from time to time. Policies, rules, or procedures affecting existing easements established by the Declarant and limiting the establishment by the Declarant of easements necessary to complete Sun City Grand shall be expressly included in this provision. Easements that may be established by the Declarant shall include, but shall not be limited to, easements for development, construction, and landscaping activities and utilities; or

(f) impacts the ability of the Declarant or its affiliates to develop and conduct customer service programs and activities in a customary and reasonable manner.

Neither the Association nor any Neighborhood Association shall exercise its authority over the Common Area to interfere with the rights of the Declarant set forth in this Declaration or to impede access to any portion of the Properties or the Exhibit "B" property over the streets and other Common Area within the Properties.

15.7. Public Streets. All streets within the Properties shall be public unless made private as provided herein. The Board, with the consent of the Declarant for so long as the Declarant owns any of the property described in Exhibits "A" or "B," may take action to convert any street within the Properties to a private street. In such event, the private street shall be (a) a part of the Common Area to be maintained by the Association and paid for by all Owners as a Common Expense; or (b) Exclusive Common Area of a Neighborhood or Neighborhoods to be maintained by the Association or a Neighborhood Association^{Unofficial Document} paid for by the Owners of Lots within the subject Neighborhood(s) as a Neighborhood Expense. The option to convert to private streets may be exercised throughout the Properties or on a Neighborhood by Neighborhood basis, in the discretion of the Board. Notwithstanding the above, the conversion of any street to a private street shall require the approval of a majority of affected Owners if such conversion would result in an increase in the Base or Neighborhood Assessment owed by such Owners in excess of 15% of such assessment charged in the previous fiscal year.

The Association shall not erect any gate across any street which limits access to the Properties without the prior written consent of the Declarant, as long as it owns any property described in Exhibits "A" or "B." Such consent shall be given only in accordance with any Development Agreements.

15.8. Right to Use Common Area for Special Events. As long as the Declarant owns any property described in Exhibits "A" or "B," the Declarant shall have the right to use all or any portion of the Common Area, including any golf courses or other recreational facilities, to sponsor special events for charitable, philanthropic, political, or marketing purposes as determined by the Declarant in its sole discretion. Any such event shall be subject to the following conditions:

(a) the availability of the facilities at the time a request is submitted to the Association;

(b) the Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event; and

(c) the Declarant shall return the facilities and personal property owned by the Association and used in conjunction with the special event to the Association in the same condition as existed prior to the special event.

The Declarant shall have the right to assign the rights contained in this Section 15.8 to charitable organizations or foundations selected by the Declarant. The Declarant's right to use the Common Area for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

15.9. Use of Common Area by Declarant's Employees. Until termination of the Class "B" Control Period, the Declarant reserves the right to allow its employees to use any of the recreational facilities or other Common Area in the normal course of such facilities' operations.

15.10. Other Covenants. As long as Declarant owns any of the property described in Exhibits "A" or "B," no Person shall record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant. The Declarant reserves the right to enter into Covenants to Share Costs on behalf of the Association and to impose ^{Unofficial Document} restrictions and covenants on property within 25 miles of Sun City Grand with the consent of the owner of such property. The Declarant, in its discretion, may require the Association to enforce any such deed restrictions or covenants in a manner consistent with the By-Laws and in accordance with the terms provided in such restrictions and covenants.

15.11. Sales By Declarant. Notwithstanding the restrictions set forth in Section 2.3, Declarant reserves the right for the Declarant, and only the Declarant, to sell Lots to Persons between the ages of 40 and 55, inclusive, and for such Lots to be occupied by such Persons; provided, Declarant's rights under this Section 15.11 shall be limited by the requirement that, at all times, at least 80% of the Dwelling Units within the Properties shall be occupied by at least one Person 55 years of age or older. Notwithstanding such right, it is the intention of the Declarant that Sun City Grand comply with applicable State and Federal laws permitting the Properties to be developed and operated as an age-restricted community.

15.12. Amendment. This Article shall not be amended without the prior written consent of the Declarant so long as the Declarant owns any property described in Exhibits "A" or "B." The rights contained in this Article shall terminate upon the earlier of (a) 30 years after the conveyance of the first Lot to a Home Owner after the issuance of the first Public Report, or (b) upon recording by Declarant of a written statement that all sales activity has ceased. Thereafter, the Declarant and Builders may continue to use the Common Areas for purposes stated in this Article only pursuant to

a rental or lease agreement between the Declarant and/or such Builder and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas.

Article XVI
GOLF COURSES AND PRIVATE AMENITIES

16.1. Right to Use. Access to and use of any Private Amenity or any golf course within the Properties is strictly subject to the rules and procedures of such Private Amenity or golf course. Subject to such rules and procedures, any Person allocated an Activity Card shall be permitted to enter and use any golf course which is part of the Common Area.

The Private Amenities are not subject to the Governing Documents. No Person automatically gains any right to enter or use any Private Amenity, including any golf course which is a Private Amenity, by virtue of membership in the Association, ownership of a Lot, or occupancy of a Dwelling Unit. Rights to use the Private Amenities will be granted only to such Persons, and on such terms and conditions, as may be determined by their respective owners. Except as otherwise agreed by any owner of a Private Amenity, such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions for use of their respective Private Amenities and to terminate use rights altogether.

Except as provided herein, no representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of, any Private Amenity. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by the Declarant (so long as the Declarant owns any property described in Exhibits "A" or "B") and the owner(s) of any Private Amenity which is the subject thereof.

16.2. Assumption of Risk and Indemnification. Each Owner, by purchasing a Lot in the vicinity of any golf course, hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of any such golf course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around sunrise or sunset), (b) noise caused by golfers, (c) use of pesticides, herbicides and fertilizers, (d) use of effluent in the irrigation of the golf course, (e) reduction in privacy caused by constant golf traffic on the golf course or the removal or pruning of shrubbery or trees on the golf course, (f) errant golf balls and golf clubs, and (g) design of the golf course.

Each such Owner agrees that neither Declarant, the Association, nor any of Declarant's affiliates or agents shall be liable to Owner or any other Person claiming any loss or damage, including, without limitation, indirect, special, or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other alleged wrong or entitlement

to remedy based upon, due to, arising from, or otherwise related to the proximity of Owner's Lot to a golf course, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents or the Association. The Owner hereby agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents, and the Association against any and all claims by Owner's visitors, tenants, and others upon such Owner's Lot.

16.3. Golf Course View. Neither the Declarant nor the Association guarantees or represents that any view over and across any golf course from adjacent Lots will be preserved without impairment. No provision of this Declaration shall be deemed to create an obligation of the Association or the Declarant to prune or thin trees or other landscaping except as provided in Article V. Each Owner acknowledges and agrees that trees and other landscaping may be added to any golf course from time to time. In addition, the location, configuration, size, and elevation of the tees, bunkers, fairways, and greens on any golf course may be changed from time to time, in the discretion of the owner or operator of the golf course. Any such additions or changes to such golf course may diminish or obstruct any view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Any such addition or change to any golf course may not adversely affect drainage flow across the Properties.

16.4. Cooperation. It is Declarant's intention that the Association and the owners of any Private Amenities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard. The Association shall have no power under this Declaration to promulgate Use Restrictions affecting activities or use of the Private Amenities without the prior written consent of the owners of the Private Amenities affected thereby.

Article XVII

DISPUTE RESOLUTION

17.1. Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any Builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties) agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that the claims, grievances, or disputes described in Sections 17.2 ("Claims") shall be resolved using the procedures set forth in Section 17.3 in lieu of filing suit in any court.

17.2. Claims. Unless specifically exempted below, all claims, grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 17.3.

Notwithstanding the above, the following shall not be Claims and shall not be subject to the provisions of Section 17.3:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article X;
- (b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article XI and Article XII;
- (c) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;
- (d) any suit in which any indispensable party is not a Bound Party; and
- (e) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any suit described in subsections (a) through (e) above may be submitted to the alternative dispute resolution procedures set forth in Section 17.3.

17.3. Mandatory ProceduresUnofficial Document

- (a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:
 - (i) The nature of the Claim, including the Persons involved and Respondent's role in the Claim;
 - (ii) The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
 - (iii) Claimant's proposed remedy; and
 - (iv) That Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing by any Party, accompanied by a copy of the Notice, the Board may designate an individual to assist the Parties in resolving the dispute by negotiation.

(ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 45 additional days to submit the Claim to mediation under the auspices of the Community Associations Institute or, if such service is not locally available through the Community Associations Institute or if the Parties otherwise agree, to an independent agency providing dispute resolution services in the Phoenix, Arizona area.

(iii) If Claimant does not submit the Claim to mediation within 45 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 45 days after submission of the matter to the mediation process, or within Unofficial Document as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five days after the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

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

(ii) This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Arizona. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Arizona.

17.4. Allocation of Costs of Resolving Claims.

(a) Each Party shall bear its own costs in connection with negotiation and mediation, including any attorneys fees incurred, and all Parties shall share equally all charges of the mediator(s).

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's attorney's fees and costs (including expert witness fees) incurred in the arbitration to the Award, such costs to be borne equally by all Respondents against whom the Award is imposed. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its attorney's fees and costs (including expert witness fees) incurred in the arbitration.

17.5. Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 17.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover Unofficial Document the non-complying Party (or if more than one non-complying Party, from all such Parties in equal amounts) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

Article XVIII
GENERAL PROVISIONS

18.1. Term. This Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 20 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of ten years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein.

18.2. Amendment.

(a) By Declarant. Until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend

this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots; (iv) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots; or (v) otherwise necessary to satisfy the requirements of any governmental agency for approval of this Declaration. However, any such amendment shall not adversely affect the title to any Lot unless the affected Owner shall consent thereto in writing. In addition, as long as Declarant owns any portion of the Properties, or has the unilateral right to annex property pursuant to Article IX, it may unilaterally amend this Declaration for any other purpose, provided the amendment does not materially adversely affect the rights of any Owner.

(b) By Owners. Except as provided in Section 18.2(a), this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of 67% of the Class "A" votes, and the consent of the Declarant, as long as Declarant owns any of the property described in Exhibits "A" and "B."

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

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(c) Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the Office of the County Recorder unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

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

Notwithstanding any provision of this Declaration to the contrary, no amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege as long as the Declarant owns any property described in Exhibits "A" or "B."

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

18.4. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

18.5. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Neighborhood and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions of any Neighborhood; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Neighborhood shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

18.6. Use of the Words "Sun City Grand." No Person shall use the words "Sun City Grand" or any derivative, or any other term which Declarant may select as the name of this development or any component thereof, in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the words "Sun City Grand" in printed or promotional matter solely to specify that particular property is located within the Properties and the Association shall be entitled to use the words "Sun City Grand" in its name.

18.7. Del Webb Marks. Any use by the Association of names, marks or symbols of Del Webb Corporation or any of its affiliates (collectively "Del Webb Marks") shall inure to the benefit of Del Webb Corporation and shall be subject to Del Webb Corporation's periodic review for quality control. The Association shall enter into license agreements with Del Webb Corporation, terminable with or without cause and in a form specified by Del Webb Corporation in its sole discretion, with respect to permissive use of certain Del Webb Marks. The Association shall not use any Del Webb Mark without Del Webb Corporation's prior written consent.

18.8. Compliance. Every Owner and occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association, the Declarant, or, in a proper case, by any aggrieved Lot Owner(s).

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

18.10. Attorneys' Fees. Except as otherwise provided in Article XVII, in the event of an action instituted to enforce any of the provisions contained in the Governing Documents the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs, including administrative and lien fees, of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Benefitted Assessment with respect to the Lot(s) involved in the action.

18.11. Notices. The requirements with respect to the giving of notices under this Declaration shall be governed by the By-Laws.

(SIGNATURES ON NEXT PAGE)

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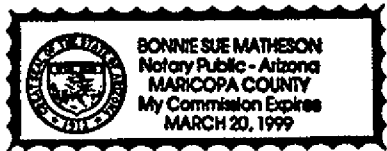
11th IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this day of July, 1996.

DEL WEBB HOME CONSTRUCTION, INC.,
an Arizona corporation

By: Charles T. Roach
Executive Vice President and General Manager

STATE OF ARIZONA)
) s.s.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 11th day of July, 1996, by Charles T. Roach, the Executive Vice President and General Manager of Del Webb Home Construction, Inc.



By: Bonnie Sue Matheson
Notary Public

My Commission Expires: March 20, 1999

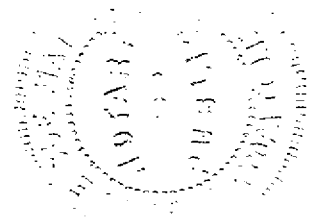


EXHIBIT "A"

Land Initially Submitted

LEGAL DESCRIPTION

Sun City Grand Phase 1 Boundary

A portion of land lying within Sections 19, 20, 29 and 30, Township 4 North, Range 1 West, and Sections 24 and 25, Township 4 North, Range 2 West, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the southwest corner of said Section 19;

thence N 00°18'56" E along the west line of said Section a distance of 1642.00 feet to the southerly right of way line of State Route 303, also known as the Estrella Freeway and to the POINT OF BEGINNING;

thence N 25°36'39" E along said right of way 199.01 feet to the beginning of a non-tangent curve, concave southeasterly, to which point a radial line bears N 64 23'33" W;

thence northeasterly 287.64 feet along the Unofficial Document said curve, and along said right of way, having a radius of 5429.58 feet, through a central angle of 03 02'07";

thence leaving said right of way S 89°19'11" E 4082.08 feet to a point on the south-westerly right of way line of Grand Avenue, said point being on a non-tangent curve, concave southwesterly, to which point a radial line bears N 46°17'15" E;

thence southeasterly 872.65 feet along the arc of said curve, and along said right of way line, having a radius of 10934.00 feet, through a central angle of 04°34'22" to the beginning of a reverse curve, concave northeasterly, having a radius of 11555.24 feet;

thence southeasterly 1271.59 feet along the arc of said curve, through a central angle of 06°18'18";

thence leaving said right of way line N 83°32'05" W 62.96 feet;

thence S 58°22'31" W 86.74 feet;

thence S 43°22'31" W 193.22 feet to the beginning of a curve, concave southeasterly, having a radius of 1280.00 feet;

thence southwesterly 617.87 feet along the arc of said curve, through a central angle of 27°39'26";

thence S 15°43'05" W 166.37 feet to the beginning of a curve, concave northwesterly, having a radius of 660.00 feet;

thence southerly 204.05 feet along the arc of said curve, through a central angle of 17°42'51";

thence S 10°39'24" E 30.17 feet;

thence S 54°44'43" E 61.12 feet;

thence S 35°15'17" W 110.00 feet;

thence N 54°44'43" W 61.45 feet;

thence S 80°15'17" W 29.70 feet;

thence S 35°15'17" W 104.43 feet to the beginning of a curve, concave northwesterly, having a radius of 2065.00 feet;

thence southwesterly 628.28 feet along the arc of said curve, through a central angle of 17°25'57";

thence S 52°41'13" W 1675.98 feet to the beginning of a curve, concave southeasterly, having a radius of 4335.00 feet;

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thence southwesterly 1694.96 feet along the arc of said curve, through a central angle of 22°24'08";

thence S 61°33'57" E 178.59 feet;

thence S 48°45'42" E 22.56 feet;

thence S 61°33'57" E 631.00 feet;

thence S 28°26'03" W 110.00 feet;

thence S 32°29'16" W 50.13 feet;

thence S 26°16'25" W 187.00 feet;

thence S 19°27'56" W 182.00 feet;

thence S 13°17'49" W 102.00 feet;

thence S 74°14'08" E 378.32 feet;

thence S 10°24'48" W 437.76 feet;

thence S 79°35'12" E 54.60 feet;

thence S 10°24'48" W 110.00 feet;

thence N 79°35'12" W 200.00 feet to the beginning of a curve, concave northerly, having a radius of 1555.00 feet;

thence westerly 105.99 feet along the arc of said curve, through a central angle of 03°54'19";

thence N 75°40'53" W 1020.32 feet;

thence S 59°19'07" W 29.70 feet;

thence N 75°40'53" W 120.00 feet;

thence N 30°40'53" W 29.70 feet;

thence N 75°40'53" W 369.82 feet to the beginning of a curve, concave northerly, having a radius of 2155.00 feet;

thence westerly 131.69 feet along the arc Unofficial Document of said curve, through a central angle of 03°30'05";

thence N 72°10'49" W 1317.82 feet to the beginning of a curve, concave southerly, having a radius of 2945.00 feet;

thence westerly 661.93 feet along the arc of said curve, through a central angle of 12°52'41";

thence S 49°12'09" W 29.31 feet;

thence N 86°32'13" W 110.00 feet;

thence N 42°16'34" W 29.31 feet to the beginning of a non-tangent curve, concave southerly, to which point a radial line bears N 01°59'04" E;

thence westerly 310.74 feet along the arc of said curve, having a radius of 2945.00 feet, through a central angle of 06°02'44";

thence S 85°56'21" W 572.00 feet to the beginning of a curve, concave northerly, having a radius of 3055.00 feet;

thence westerly 342.75 feet along the arc of said curve, through a central angle of 06°25'41";

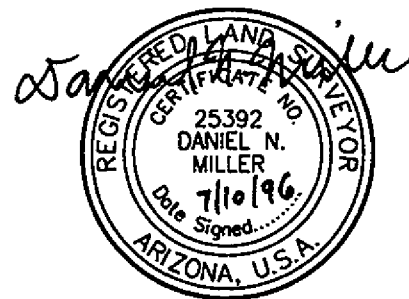
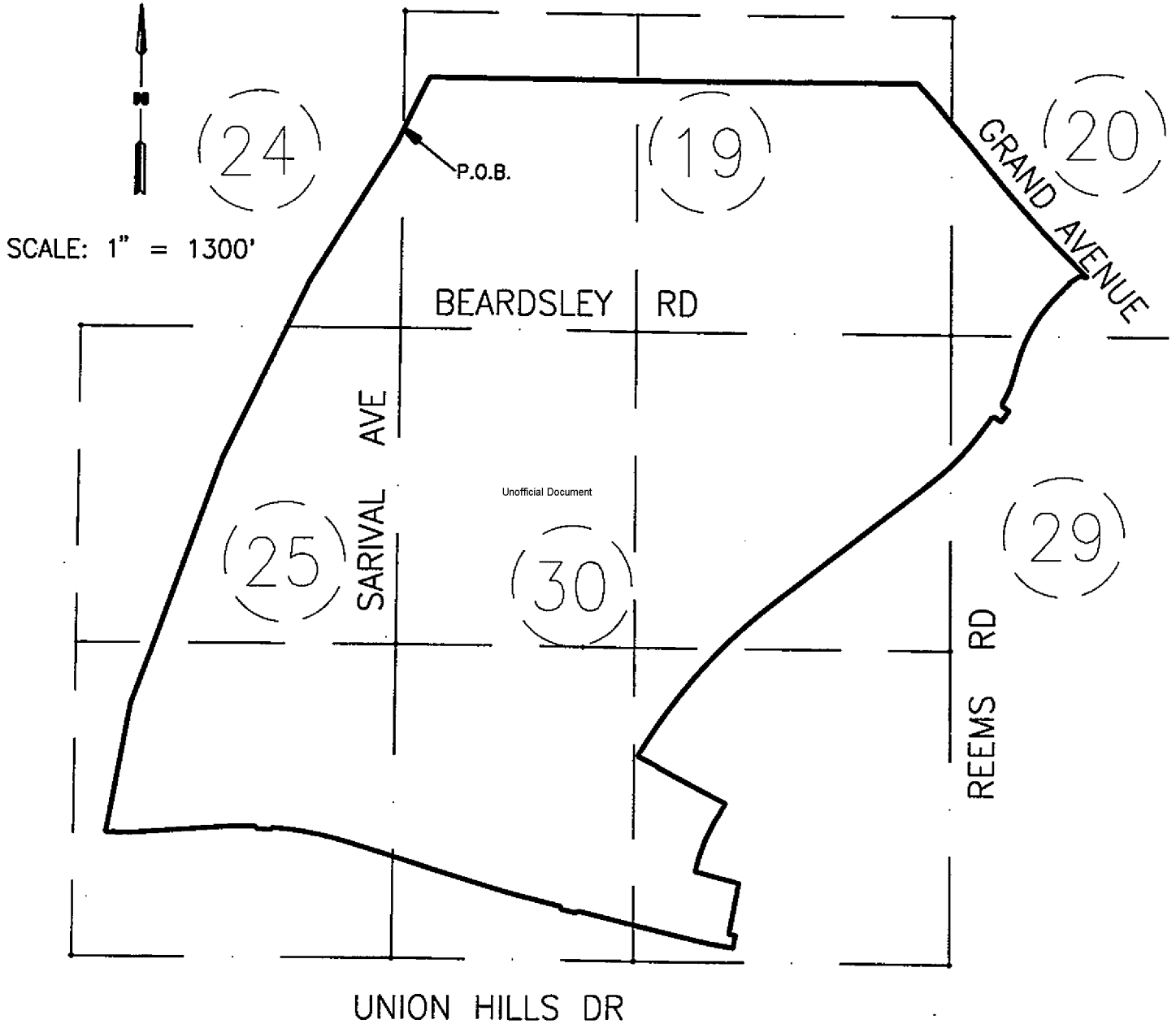
thence N 10°16'24" E 1101.38 feet;
thence N 20°14'43" E 536.24 feet;
thence N 19°33'43" E 1630.46 feet;
thence N 25°36'37" E 1650.00 feet;
thence N 31°58'32" E 1358.38 feet;
thence N 25°36'39" E 106.71 feet to the POINT OF BEGINNING.

NEIGHBORHOOD 1

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EXHIBIT A-1

SUN CITY GRAND PHASE 1



STANLEY CONSULTANTS, INC.

2929 EAST CAMELBACK ROAD, SUITE 130
PHOENIX, ARIZONA 85016 • (602) 912-6500

INTERNATIONAL CONSULTANTS IN ENGINEERING, ARCHITECTURE, PLANNING, AND MANAGEMENT

EXHIBIT "B"

Land Subject to Annexation

All real property lying and being within 25 miles from any portion of any boundary line outlining the Properties, as the Properties may change from time to time.

EXHIBIT "C"

Use Restrictions

(1) **General.** The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and any Supplemental Declaration), subject to applicable laws. Any Supplemental Declaration or additional covenants imposed on the property within any Neighborhood may impose stricter standards than those contained in this Declaration and the Association shall have standing and the power to enforce such standards.

(2) **Prohibited Activities.** The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

(a) Posting of signs of any kind, including posters, circulars, campaign signs, political signs, and billboards, except those required by law and except as permitted by the Design Guidelines or the Declaration, on any Lot, Common Area, or right-of-way;

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(b) Subdivision of a Lot into two or more Lots after a subdivision plat including such Lot has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Lot, except that the Declarant and Builders, with Declarant's consent, shall be permitted to subdivide or change the boundary lines of Lots which they own;

(c) Active use of lakes, ponds, streams, or other bodies of water within the Properties, including any golf course, except that the Association and its agents shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas. The Association shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, or other bodies of water within or adjacent to the Properties;

(d) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Dwelling Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Vacation Villas or Dwelling Units which it owns;

(e) Occupancy of a Dwelling Unit by more than two persons per bedroom in the Dwelling Unit;

(f) Capturing, trapping or killing wildlife within the Properties, except (i) in circumstances posing an imminent threat to the safety of persons or pets using the Properties; (ii) when authorized and supervised by the Board in accordance with a game management program and with the consent of the Declarant as long as it owns any property described in Exhibits "A" or "B"; or (iii) the Declarant shall have the right to remove water fowl from any golf course;

(g) Activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Properties or which result in unreasonable levels of sound or light pollution;

(h) Disposal of any oil, gas, or lubricants, and the storage or disposal of other hazardous materials (as may be determined in the Board's reasonable discretion and as defined by applicable law) anywhere within the Properties;

(i) Discharge of firearms or explosives within the Properties. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size;

(j) Parking of any vehicle (including, but not limited to, any car, truck, motorcycle, boat, or trailer) containing or displaying a "for sale" sign, or other indication of being "for sale," in any driveway or other portion of any Lot, or on any street or any portion of the Common Area; and

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(k) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (ii) the business activity conforms to all zoning requirements for the Lot; (iii) the business activity does not involve regular visitation of the Lot or Dwelling Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (iv) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The leasing of a Dwelling Unit shall not be considered a business or trade within the meaning of this subsection. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Dwelling Units may be leased only in their entirety. No fraction or portion may be leased. No structure on a Lot other than the primary residential Dwelling Unit shall be leased or otherwise occupied for residential purposes; provided, each Lot may contain an Ancillary Unit which

is attached to or detached from the primary Dwelling Unit and is used for ancillary residential purposes (and is not available for independent sale or leasing). There shall be no subleasing of Dwelling Units or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing.

No transient tenants may be accommodated in a Dwelling Unit, and all leases shall be for an initial term of no less than 30 days, except: (i) with the prior written consent of the Board; (ii) as initially authorized by Declarant in a Supplemental Declaration for Lots located within certain Neighborhoods; or (iii) in a Vacation Villa. As long as the Declarant owns any property described in Exhibits "A" or "B" neither the Board nor the Members may amend this provision to prohibit leasing of Vacation Villas or Dwelling Units within certain Neighborhoods authorized by Declarant for rental to transient tenants and for a term less than 30 days.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Lot Owner within ten days of execution of the lease. The Owner must make available to the lessee copies of the Governing Documents. The Board may adopt reasonable rules regulating leasing and subleasing by Owners other than Declarant.

The above paragraphs (a), (g), and (k) shall not apply to any activity conducted by the Declarant, or a Builder approved by the Declarant, with respect to the development and sale of Lots within the Properties, Declarant's use or operation of Vacation Villas, timeshare, or similar programs, or Declarant's use of any Lots which it owns within the Properties, including the construction and maintenance of model homes. Unofficial Document

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

(a) Except as may otherwise be provided in the Design Guidelines, exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, telephone, or other electric currents, power, or signals of any kind unless completely contained within the Lot so as not to be visible from other Lots, Common Area, or Private Amenities by any Person, six feet in height, standing at foundation level on any Lot, Common Area or Private Amenity (hereafter, "Visible From Neighboring Property") or otherwise approved pursuant to Article XI; provided, the Declarant and the Association shall have the right, but not the obligation, to erect or install and maintain such apparatus, even if Visible From Neighboring Property, for the benefit of all or a portion of the Properties;

(b) Walls, dog runs, animal pens, or fences of any kind on any Lot except as approved in accordance with Article XI;

(c) Open garage doors. Garage doors shall remain closed at all times except when entering and exiting the garage;

(d) Stand-alone flagpoles, clotheslines, or other outside facilities for drying or airing clothes;

(e) Detached garages;

(f) Excessive exterior lighting on any Lot, including lighting which causes unreasonable glare, unless necessary for public safety purposes on, or lighting of, Private Amenities or Common Area. The Board shall in its sole discretion determine whether any exterior lighting is excessive;

(g) Tents, shacks, or temporary structures on any Lot except as approved in accordance with Article XI or as may be authorized by the Declarant during initial construction within the Properties. Temporary structures used during the construction or repair of a Dwelling Unit or other improvements shall be removed immediately after the completion of construction or repair;

(h) Temporary or permanent storage buildings or sheds, whether prefabricated, metal or of any other construction whatsoever, which are Visible From Neighboring Property. No furniture, fixtures, firewood, appliances, machinery, equipment, or other goods or chattels which are not in active use shall be stored in any building or any Lot or Common Area in such a manner as to be Visible from Neighboring Property; provided, however, this restriction shall not apply to the property of the Association, the Declarant, or any Builder (to the extent approved by the Declarant). Notwithstanding the foregoing, an Owner may be permitted to construct or place a gazebo, pergola, or similar structure within the rear yard of Unofficial Document conformance with the Design Guidelines and all applicable zoning ordinances and otherwise approved pursuant to Article XI;

(i) Outdoor playground equipment (except within any Common Area); and

(j) Designs in landscaping softscape or hardscape that appear unnatural or cause a distraction or are otherwise limited or prohibited by the Design Guidelines; (e.g., words, initials, or images). All landscaping shall be maintained in accordance with the Community-Wide Standard.

(4) Rules Regarding Pets. Raising, breeding, or keeping of animals, insects, or poultry of any kind is prohibited in the Properties except in accordance with the following:

(a) Occupants of Dwelling Units may keep a total of three cats and/or dogs and a reasonable number of other usual and common household pets on a Lot;

(b) Pets shall be confined to the Lot or kept on a leash at all times;

(c) Owners of pets shall be responsible for the immediate removal and disposal of all solid animal waste of such owners' pets;

(d) No pet shall be allowed to make objectionable noises or an unreasonable amount of noise (as determined in the reasonable discretion of the Board);

(e) Pets which are permitted to roam free, make objectionable or excessive noise, leave waste in the Properties, endanger the health or safety of occupants of other Dwelling Units, or constitute a nuisance or inconvenience to occupants of other Dwelling Units shall be removed upon request of the Board. If the pet owner fails to honor the request, the Board may remove the pet; and

(f) Occupants of Dwelling Units may keep a reasonable number of bird feeders on their Lots so long as such feeders do not create a nuisance to neighboring Lots and subject to any other limitations established by the Board.

This Section (4) shall not apply to prohibit the Declarant or the Association from permitting, tolerating, or encouraging use of the Properties, including bodies of water within the Properties, by animals, birds, or other wildlife.

(5) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to any other portion of the Properties. Woodpiles or other material shall be stored in a manner so as not to be Visible From Neighboring Property and so as not to be attractive to native rodents, snakes, and other animals and to minimize the potential danger from fires. No other nuisances shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Properties. Without limiting the generality of any of the foregoing provisions, the Board shall be permitted to establish and enforce reasonable restrictions and guidelines with respect to noise levels originating from a Lot and with respect to the placement and use of noisemaking apparatus on any Lot.. No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are or might be unsafe or hazardous to any Person or property. No open fires shall be lighted or permitted on the Properties, except in a contained outdoor fireplace or barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace. No odors shall be permitted to arise or emit from any Lot, which are offensive or detrimental to any neighboring property, as determined in the discretion of the Board.

Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction consistent with the Community-Wide Standard. During construction periods, trash and debris shall not be permitted to accumulate and shall be removed or placed in appropriate trash containers on a daily basis. Supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved in accordance with Article XI. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas

approved in accordance with Article XI, which may also require screening of the storage areas. The Declarant, for so long as it owns any property described in Exhibits "A" or "B," and, thereafter, the Board, in its sole discretion, shall have the right to determine the existence of any such nuisance.

(6) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Common Area except in covered containers of a type, size and style which are approved in accordance with Article XI and the Design Guidelines. In no event shall such containers be Visible From Neighboring Property except to be available for collection and then only for the shortest time reasonably necessary for such collection. All rubbish, trash, or garbage shall be removed from the Lots and Common Area and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

(7) Trucks, Trailers, Recreational Vehicles, Campers and Boats. No motor vehicle classed by manufacturer rating as exceeding one ton, recreational vehicle, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot, Common Area, or on any street within the Properties; provided, however, that the provisions of this subsection shall not apply to cleaning, loading or unloading and short-term parking which shall be permitted for a cumulative period not to exceed 72 hours in any calendar month. The provisions of this subsection shall not apply to: (a) pickup trucks of one ton or less capacity with camper shells not exceeding seven feet in height measured from ground level and mini-motor homes and/or passenger vans not exceeding seven feet in height and eighteen feet in length, which are used on a regular and recurring basis for basic transportation, are parked in a Unofficial Document enclosed shelter permitted by this Declaration, constructed as an integral part of the Lot, and maintained in the same manner as all other parts of the Dwelling Unit constructed thereon; and (b) trucks, trailers and campers parked in areas designated for parking in non-residential land use classifications in connection with permitted commercial activities conducted in such non-residential land use classifications. None of the vehicles described above, or any other vehicle, may be used as a living area or otherwise occupied while located on the Properties.

(8) Motor Vehicles. No automobile, motorcycle, motorbike, or other motor vehicle shall be constructed, reconstructed, or repaired upon any Lot, Common Area or street within the Properties, and no inoperable vehicle may be stored or parked on any Lot so as to be Visible From Neighboring Property; provided, however, that the provisions of this subsection shall not apply to emergency vehicle repairs. The provisions of this subsection shall not apply to motor vehicles and equipment owned or operated by the Declarant, Builders (to the extent approved by Declarant) or the Association and parked in designated maintenance areas.

(9) Parking. It is the intent of the Declarant to restrict on-street parking as much as possible. Vehicles of all occupants of Dwelling Units and of their guests are to be kept in garages, carports, and residential driveways, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles on a Lot; provided, however, this

subsection shall not be construed to permit the parking in the above described areas of any vehicle whose parking within the Properties is otherwise prohibited or the parking of any inoperable vehicle.

(10) Diseases and Insects. Owners shall not permit any thing or condition to exist upon any Lot that is likely to induce, breed, or harbor infectious plant diseases or noxious insects.

(11) Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk, street, pedestrian pathway, golf cart path, or other area from ground level to a height of eight feet without prior approval in accordance with Article XI.

(12) Swimming Pools. In addition to any requirements set forth by the Declarant or the Board or in the Design Guidelines, no swimming pool, spa, pond, or other man-made body of water may be constructed, installed, or maintained on any Lot in violation of any applicable local government pool ordinances, including, but not limited to, the Maricopa County Swimming Pool and Protective Enclosure criteria. This shall include compliance with any requirements as to the construction and maintenance of walls or fences.

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EXHIBIT "D"

Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("Arbitration Notice").

2. The Parties shall select arbitrators ("Party Appointed Arbitrators") as follows: all the Claimants shall agree upon one Party Appointed Arbitrator, and all the Respondents shall agree upon one Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator ("Neutral") so that the total arbitration panel ("Panel") has three arbitrators.

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the American Arbitration Association, or such other independent body providing arbitration services, for any dispute relating to the design or construction of improvements on the Properties, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

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

5. The Appointed Neutral or Neutral, as the case may be ("Arbitrator") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

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

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

10. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.

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11. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

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

13. There will be no posthearing briefs.

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

Exhibit "D"

Page 2 of 3

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

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

Unofficial Document

EXHIBIT 2

AMENDED AND RESTATED BYLAWS
OF
SUN CITY GRAND COMMUNITY ASSOCIATION, INC.

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**AMENDED AND RESTATED BYLAWS
OF
SUN CITY GRAND COMMUNITY ASSOCIATION, INC.**

Article I

Name Principal Office and Definitions

- 1.1 **Name.** The name of the Association shall be Sun City Grand Community Association, Inc. (“Association”).
- 1.2 **Principal Office.** The principal office of the Association shall be located in Maricopa County Arizona. The Association may have such other offices as the Board may determine or as the affairs of the Association may require.
- 1.3 **Definitions.** The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Sun City Grand filed in the Office of the County Recorder of Maricopa County, Arizona, as the same may be amended from time to time (“Declaration”).

Article II

Association: Membership, Meetings, Quorum, Voting

- 2.1 **Membership.** The Association shall have one class of membership as set forth in the Declaration. The provisions pertaining to membership in the Declaration are incorporated herein by this reference.
- 2.2 **Place of Meetings.** Meetings of the Association shall be held within Sun City Grand or at such other suitable place within Maricopa County, Arizona as may be designated by the Board.
- 2.3 **Annual Membership Meeting.** An annual meeting shall be held on a date and at a time set by the Board. In the event that a quorum, as defined in section 2.10 of these Bylaws, is not present at an annual meeting, the Association may hold the meeting for informational purposes; provided, however, the Association may not take any action at such meeting unless a quorum is present.
- 2.4 **Special Membership Meeting.** The President may call a special membership meeting. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members holding at least 10% of the voting power of the Association. In the case of a special meeting held for the purpose of removing directors a meeting shall be called and held as provided in section 3.5 and Arizona law.
- 2.5 **Notice of Membership Meeting.** The Secretary of the Association shall provide notice of the place, date, time and purpose of any Membership meetings of the Association.

Mailed notices applicable to sections 2.3 and 2.4 shall be deemed delivered when deposited in the United States mail addressed to the Member(s)’ as it appears on the records of the Association, with prepaid postage.

Electronic notices shall be deemed delivered when transmitted to the Member(s)' email address and/or facsimile number on the records of the Association.

The failure of any Member to receive the actual notice shall not affect the validity of any action taken at such meeting.

2.6 Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may in writing waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the date, time, and place thereof unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7 Adjournment of Membership Meeting. If any membership meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting may, without further notice, adjourn the meeting to a date not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed in section 2.5.

2.8 Voting. Members shall have such voting rights as set forth in the Declaration. Such voting rights provisions are incorporated herein by this reference. Members may vote at a meeting by ballot, mail or other means as determined by the Board, without the necessity of a meeting, as determined by the Board; provided, however, meetings shall be held when required by the Declaration, these Bylaws or Arizona law. Votes for the election of directors shall be cast by secret ballot. All votes of the Members at meetings shall be subject to the quorum requirements of section 2.10 of these Bylaws.

2.9 Majority. As used in these Bylaws, the term "majority" shall mean those votes, Members, or other group, as the context may indicate, totaling at least 50% plus one of the total eligible number; unless otherwise provided in these Bylaws.

2.10 Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence, in person or by absentee or written ballot, of 10% of the Members of the Association shall constitute a quorum at all membership meetings of the Association. Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum; provided, unless otherwise specifically set forth in the Governing Documents, any action for which a vote of the Members at a meeting is required must be approved by at least a majority of the votes required to constitute a quorum.

2.11 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall ensure that minutes of the meeting are kept and that all resolutions adopted at the meeting, as well as all transactions occurring at the meeting, are recorded.

Article III **Board of Directors**

A. Composition and Selection

3.1 Governing Body Composition. The affairs of the Association shall be managed by a Board of Directors which shall serve as the corporate policy-making body of the Association. Each Director shall have one equal vote. Directors shall be Members or Qualified Occupants; provided, however, no more than one representative from a particular Lot may serve on the Board at the same time. All directors shall complete, prior to commencing service on the Board, such training requirements as established by the Board.

In the case of a Member which is not a natural person, any director, partner, trustee or representative of such Member shall be presumed to be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member. No Member may have more than one such representative on the Board at a time.

3.2 Number of Directors. The number of directors in the Association shall be not less than five nor more than seven. The minimum number of directors required to exercise the full authority of the Board shall be three. All vacancies shall be filled as set forth in section 3.5 of this Article.

3.3 Election of Directors. The Board may appoint an Election Committee. The members of the Election Committee shall be Members or Qualified Occupants.

Applications for election to the Board shall be made in accordance with policies and procedures established, from time to time, by the Board. These policies shall be established no later than 90 days prior to the final voting date of any election. Applications shall be made no later than 35 days prior to the final day of any election.

3.4 Election and Term of Office. Annual elections for directors shall be held in the first three months of each calendar year except for the following:

- (a) If the number of candidates is equal to the number of positions to be filled, no Member voting shall occur and the candidates shall be declared to have been elected.
- (b) If there are fewer candidates than positions to be filled, no Member voting shall occur, the candidates shall be declared to have been elected, and the Board shall be authorized to appoint qualified Members to any remaining positions needing to be filled.

Directors elected at such annual elections shall take office on April 1 of that year. Each director shall be entitled to serve up to three consecutive two-year terms and, after three consecutive two-year terms, must wait at least one year before serving again. A director serving

more than 365 days within a two year term shall be considered as having served a full term. Directors shall serve until their successors are elected or appointed as the case may be.

Each Lot shall be entitled to cast votes equal to the number of positions on which the Member is entitled to vote. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected to fill all of the positions.

3.5 Removal of Directors and Vacancies. Any director may be removed, with or without cause, by a majority vote of those Members voting on the matter at a meeting of the Members in accordance with Arizona law. Any director whose removal is sought shall be given notice prior to any meeting called and noticed in accordance with Arizona law for that purpose or prior to any recall vote. Upon removal of a director, a successor shall be appointed or elected, as applicable, in accordance with Arizona law.

Any director who has three consecutive unexcused absences from Board meetings, who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, who fails or refuses to complete the training requirements referenced in section 3.1, or who is shown to be in violation of the governing documents or any written policy or resolution adopted by the Board, may be removed by the vote of at least two-thirds (2/3) of all directors at a regular or special meeting of the Board at which a quorum is present.

Vacancies on the Board exclusive of those created by a Member vote as described in section 3.5, or in accordance with current Arizona law, shall be filled by appointment. Any director so appointed shall be entitled to serve for the remainder of the term unless removed. If the vacancy commences within 365 days from the end of that term, the Board may choose not to fill the vacancy. Vacancies shall be filled as follows:

- (a) If no directors remain, the general manager is granted the authority to appoint to the Board a person who meets all qualifications for a director and who has previously served as a director, if one is available. If not, any person meeting the qualifications for a director may be appointed.
- (b) A single director shall appoint two individuals meeting the qualifications for directors.
- (c) Three or more directors shall, if required, fill any remaining vacancies, one at a time, assigning each newly appointed director to a specific vacancy. That director shall participate in the filling of any additional vacancies.

B. Board Meetings.

3.6 Board Organizational Meeting. Each Board shall hold an organizational meeting within 30 days after elected directors take office.

3.7 Regular Board Meeting. Regular meetings of the Board may be held at such time and place as the Board shall determine, but at least one such meeting shall be held each quarter. The date, time, and place shall be provided as part of the Board meeting notice in accordance with Arizona

law. Other than in executive session Board meetings, Members shall have an opportunity to be heard at a Board meeting prior to any action being taken.

3.8 Special Board Meeting. Special meetings of the Board shall be held when called by written notice signed by the President or by any two directors. The date, time, and place shall be provided as part of the Special meeting notice stating the purpose(s) of the meeting.

3.9 Waiver of Notice. The transaction of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held and noticed if: (a) a quorum is present, (b) notice to the Members was provided in accordance with Arizona law; and (c) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10 Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of directors present at a meeting at which a quorum is present shall constitute the decisions of the Board, unless otherwise specifically provided in these Bylaws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.11 Compensation. No director shall receive any compensation from the Association for acting as such; provided, however, any director may be reimbursed for expenses incurred on behalf of the Association upon approval of the majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested director.

No remuneration shall be accepted by any Board member from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise. Anything of value received shall benefit the Association. Any financial or other interest which a Board member may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

3.12 Conduct of Meetings. The President shall preside over all meetings of the Board. The Secretary shall ensure that the minutes are kept of all meetings of the Board, recording all resolutions adopted by the Board and all transactions and proceedings occurring at such meetings.

3.13 Open Meeting. Subject to the exceptions provided by Arizona law, all meetings of the Board shall be open to all Members. The President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session or call an executive session and may exclude persons to discuss matters in accordance with Arizona law.

3.14 Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote. Written consents approved by the Board shall be announced at the next scheduled Board meeting and filed; provided if action is taken in executive session no announcement is required. Failure to give notice shall not render the action taken invalid.

3.15 Video and Telephonic Participation. One or more directors may participate in and vote during any regular or special meeting of the Board by electronic means of which all persons participating in the meeting can hear each other at the same time, and those directors so participating shall be deemed present at such meeting.

C. Powers and Duties

3.16 Statement of Operational Policy. The primary duty of the Board of Directors shall be to establish the operational policies of the Association and to exercise its powers and duties in a manner which ensures that such policies are carried forth. The Board is not responsible for nor authorized to perform day-to-day operations of the Association. The day-to-day operations of the Association shall be carried out by CAM or agents retained by the Association under the supervision of the Board.

Subject to the Board's responsibilities concerning operational policies, it shall be the policy of the Association, in the interest of the efficient operation of the Association, that the Board refrain from unreasonably interfering with the performance of delegated functions by CAM. In the performance of its duties and responsibilities, the Board shall act as a unified body and no individual member of the Board shall be authorized to speak or act on behalf of the Board unless specifically authorized to do so in writing by the Board.

3.17 Powers. The Board shall have such powers as are necessary and appropriate for the management of the Association's affairs and for ensuring that the duties and responsibilities of the Association as set forth in the governing documents or applicable laws are fulfilled. The Board may do or cause to be done all acts and things as are not prohibited by the governing documents or applicable laws. The Board may delegate powers to committees and CAM.

3.18 Duties. The duties of the Board shall include:

- (a) adopting annual budgets which establish each Owner's share of the Common Expenses and Neighborhood Expenses, if any;

- (b) levying assessments against the Members to fund the Common Expenses and Neighborhood Expenses, if any, and establishing policies governing collection of assessments;
- (c) establishing policies for the operation, care, upkeep, and maintenance of the Area of Common Responsibility and, ultimately, ensuring that such policies are carried forth;
- (d) designating, hiring and dismissing such personnel as are necessary to perform the powers, responsibilities and day-to-day operations of the Association;
- (e) approving a bank depository to receive funds on behalf of the Association and directing that all such funds be so deposited and applied towards the operation of the Association. Any reserve funds may be deposited, in the directors' best business judgment, in institutions other than banks;
- (f) adopting rules and regulations, including the Use Restrictions and amendments thereto, and approving sanctions for infractions thereof;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) establishing policies and guidelines by which the Association shall make or contract for the making of repairs, additions, and improvements to or alterations of the Area of Common Responsibility in accordance with the Declaration and these Bylaws;
- (i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the Rules and Regulations adopted by the Board and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association; provided, the Board shall not be obligated to take any action to enforce any covenant, restriction, rule, or regulation which the Board reasonably determines is, or is likely to be, inconsistent with applicable law, or if the Board reasonably determines that the Association's position is not strong enough to take such enforcement action, or if the Board otherwise determines, in its business judgment, that such enforcement action would be inappropriate;
- (j) ensuring that property, liability, and commercial crime insurance as required in the Declaration are carried by the Association, that the cost thereof is paid, and that claims are filed and adjusted, as appropriate;
- (k) providing for the payment of all taxes and/or assessments which are or could become a lien on the Common Area or a portion thereof;
- (l) providing for the payment of the cost of all services rendered to the Association or its Members and not chargeable directly to specific Members;
- (m) providing that books with detailed accounts of the receipts and expenditures are kept on behalf of the Association and are made available to any prospective

purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, subject to the exceptions set forth in Arizona statutes;

- (n) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Declaration, the Articles, the Bylaws, the Rules and Regulations and all other books, records, and financial statements of the Association;
- (o) establishing policies and guidelines under which utility suppliers are permitted to use portions of the Common Area reasonably necessary to the ongoing development or operations of the Properties;
- (p) indemnifying a director or committee member or former director or former committee member of the Association to the extent such indemnity is permitted or required by Arizona law, the Declaration, the Articles, or these Bylaws; and
- (q) developing a strategic plan, which shall be reviewed annually and updated at least every five years.
- (r) Maintaining a Neighborhood Representative Program defined by resolution of the Board.

3.19 Management. The Board shall delegate to CAM such powers as are necessary to perform its assigned duties; provided, the Board may not delegate policy making authority. Subject to the Board's responsibility to ensure compliance with policies established by the Board, upon delegation of powers to CAM, the Board shall not interfere with the day-to-day operations of the Association.

The Board may designate one of its members as responsible for communications with CAM between meetings of the Board; provided, however, such individual shall not have independent authority to supervise, direct, or interfere with the activities of CAM.

No remuneration shall be accepted by any staff member from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise. Anything of value received shall benefit the Association. Any financial or other interest which any staff member may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

3.20 Accounts and Reports. The following management standards of performance shall be followed unless the Board, by resolution, specifically determines otherwise:

- (a) financial reporting will comply with current Generally Accepted Accounting Principles (GAAP);
- (b) financial and related information shall be regularly prepared and made available to all Members subject to the exceptions set forth in Arizona law and other applicable statutes;

- (c) an annual report prepared by a qualified accounting firm and in accordance with GAAP will be completed within 180 days after the close of the Association's fiscal year.
- (d) cash accounts of the Association shall not be commingled with any other accounts.

3.21 Borrowing. The Association, acting through its Board, shall have the power to borrow money for any legal purpose, provided the Board shall obtain the approval by vote or written consent of a majority of the Members if the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that fiscal year.

3.22 Rights of the Association. Subject to applicable law relating to Member, officer, and director conflicts of interest, the Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, and other owners or residents associations, both within and outside the Properties.

Article IV **Officers**

4.1 Officers. The officers of the Association Board shall be a President, Vice President, Secretary and Treasurer and shall be current Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The officers of the Association Board shall be elected by the Board at an organizational meeting of the Board taking place pursuant to section 3.6. Each officer's term shall expire at the next organizational meeting.

4.3 Removal and Vacancies. Any officer may be removed as an officer by a vote of at least 2/3 of the directors. A vacancy in any office shall be filled by the Board for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Board shall have the following powers and duties:

- (a) President. The President shall be the chief executive officer of the Association and shall exercise general supervision and direction of the affairs of the Association. The President shall have the authority to directly administer all matters not expressly delegated or assigned to CAM or others.
- (b) Vice-President. The Vice-President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

- (c) Secretary. The Secretary shall be responsible for ensuring that the minutes of all meetings of the Association, the Board, and the committees of the Board are kept, and shall have charge of such books and papers as the Board may direct. In the Secretary's absence any officer directed by the Board shall perform all duties incident to the office of Secretary.
- (d) Treasurer. The Treasurer shall have responsibility for ensuring the preparation of the Budget by CAM as provided for in the Declaration and these Bylaws.

4.5 Resignation. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Agreements, Contracts, Deeds, Leases, Etc. All agreements, contracts, deeds, leases and other instruments of the Association shall be executed by at least two different individuals who are officers of the Association.

4.7 Checks. All checks shall be signed by two different individuals who are officers of the Association, or by such other persons as may be designated by resolution of the Board.

Article V **Committees**

5.1 Committees of the Board. Committees comprised solely of Members of the Board may be appointed to exercise the authority of the Board. Such committees shall be appointed upon the approval of at least a majority of the directors. Notwithstanding the above, no such committee may exercise the authority of the Board in reference to (a) submission to the Members of any matter requiring an act of the Members; or (b) filling vacancies on the Board or on any committee of the Board. The Board may, with or without cause, dissolve any such committee or remove any director from the committee at any time.

5.2 Other Committees. Any committee, either standing or ad hoc, may perform such tasks and functions as the Board may designate by resolution; provided, no committee or committee member may exercise any power or authority which could not otherwise be exercised by the Board in accordance with these Bylaws. The role of committees established pursuant to this section shall be to advise the Board with respect to establishing operational policy or to assist the officers in the performance of their respective functions. No committee or committee member shall be authorized to perform or interfere with the day-to-day operations of the Association except in accordance with authority expressly granted under the provisions of the Governing Documents.

Each standing committee appointed pursuant to this section shall include one non-voting director. Standing committee members shall be Members or Qualified Occupants. Ad hoc committee composition shall be determined by resolution of the Board. All committee members serve at the Board's discretion for such periods as the Board may designate by resolution; provided, however, any committee member, including the committee chair, may be removed by the vote of a majority of the directors.

5.3 Covenants and Code of Conduct Committees. In addition to any other committees which the Board may establish pursuant to section 5.2, the Board may appoint a Covenants Committee and a Code of Conduct Committee and may have a director assigned.

5.4 Compensation. No remuneration shall be accepted by a committee member from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise. Anything of value received shall benefit the Association. Any financial or other interest which a committee member may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

Article VI **Miscellaneous**

6.1 Fiscal Year. The fiscal year of the Association shall be January 1 through December 31 unless otherwise established by Board resolution.

6.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Arizona law, the Articles, the Declaration, or these Bylaws.

6.3 Conflicts. If there are conflicts between the provisions of the Declaration, the Articles, and these Bylaws, the provisions of the Declaration, the Articles, and the Bylaws (in that order) shall prevail.

6.4 Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications shall be in writing or by electronic delivery and shall be sent as follows:

(a) if to a Member, at the mailing address or e-mail address which the Member has designated in writing and filed with the Association or, if no such address has been designated, at the address of the Lot of such Member;

(i) Mailed notices shall be deemed delivered when deposited in the United States mail addressed to the Member(s) as it appears on the records of the Association, with prepaid postage.

(ii) Electronic notices shall be deemed delivered when transmitted to the Member(s)' email address and/or facsimile number on the records of the Association; or

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

6.5 Indemnification. Subject to any limitations imposed by applicable law, the Association shall indemnify every director and committee member against all expenses, including attorney fees, incurred by them in connection with any action, suit, or other proceeding (including

settlement of any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been a director or committee member of the Association.

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

6.6 Amendment

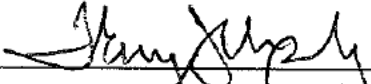
- (a) By Member. These Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least 50% plus one of the eligible votes in the Association. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.
- (b) Validity and Effective Date of Amendments. Amendments to these Bylaws shall become effective upon date of execution of the same in the manner provided in these Bylaws, unless a later date is specified therein. Any procedural challenge to an amendment must be made within six months of the effective date of such amendment or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

If a Member consents to any amendment to the Declaration or these Bylaws, it will be conclusively presumed that such Member has the authority to do so, and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

CERTIFICATION OF ADOPTION

IN WITNESS WHEREOF, the Sun City Grand Community Association has adopted and executed these Amended and Restated Bylaws as of this 30 day of MAY, 2019.

It is further certified that the foregoing Amended and Restated Bylaws were duly adopted and approved by the required percentage of Owners.

Signature: 

Name: TERRY MURPHY
President, Sun City Grand Community Association

EXHIBIT 3

The Grand
Standards of Behavior for Board Directors
Adopted 04/11/2024

PURPOSE

The leadership of The Grand strives to maintain a high standard of ethical conduct in performance of the Association's business and preserve the confidentiality of any information that is sensitive to the Association or personal to any member of the Association. For that reason, the Board of Directors has adopted for itself the following standards of behavior to create common ground in which all can work in the furtherance of the goals of the Association.

STANDARDS OF BEHAVIOR

1. **Directors shall act in the best interests of the Association as a whole.** Directors serve for the benefit of the Association and the entire community and shall, at all times, strive to do what is best for the Association as a whole. Directors shall not use their positions to benefit themselves, their families or their businesses. Directors shall act in good faith and in the best interest of the Association. Directors shall not act to further their personal agendas in conducting Association business, and no Director shall use their position for private gain.
2. **Directors shall act with civility at all times.** Disagreements may occur among Directors, with members of the Association, and with those who work for it. Directors shall conduct themselves at all times with civility and respect, in any and all kinds of communications. Language and conduct at all meetings shall be kept professional. Directors shall refrain from harassing or disparaging behavior or language against any other Director, member, resident, vendor, Association management, and Association employees.
3. **Directors shall act as a unified body.** No individual member of the Board shall be authorized to speak or act on behalf of the Board unless specifically authorized to do so in writing by the Board. This includes responding to residents' emails and posting on social media for any Association matters. Each Director acknowledges that they are only one Director and will explain that to anyone asking about Board business as opposed to speaking on behalf of the Board.
4. **Directors shall comply with governing documents, decisions of the Board and relevant laws.** Directors shall use their best efforts at all times to make reasonable decisions that are consistent with the CC&Rs, Bylaws, Residential Design Guidelines, Rules and Regulations and other governing documents of the Association, and to comply with all decisions made by the Board. Directors will support the decisions of the majority of the Board regardless of the position the Director may have taken at the time of the vote. No Director may degrade decisions of a majority of the Board, either verbally or in writing.
5. **Directors shall abide by the Statement of Operational Policy.** Directors shall not interfere with the day-to-day management of the Association. This includes interfering with staff members and contractors implementing contracts in progress. All communications with staff members and contractors will go through the General Manager unless the Board authorizes a particular Director to communicate directly with staff or unless a staff member solicits input from an individual

Director, in which case the Director will notify the General Manager of the request for input and the response.

6. **Directors shall maintain confidentiality.** Directors shall at all times maintain the confidentiality of all legal, contractual, financial, proprietary, personnel, and management matters involving the Association. Directors shall maintain confidentiality of any personal information about members of the Association [and their families] that they have received as a result of their service as Directors. Directors shall not distribute copies of confidential information, including, without limitation, attorney-client communications and executive session communications, to anyone other than Directors, unless expressly authorized by the Board. This duty extends to all Directors, even after their term has expired.
7. **Directors shall disclose any real, potential or perceived conflicts of interest.** Directors shall immediately disclose to the Board the existence of any relationship between them [or their families or businesses] and any matter involving any aspect of business operations of the Association where there is or could be reasonably thought as a personal interest or conflict of interest. Directors shall not vote on any such matter, nor seek to influence any decision affecting or disposition of any such matter. Directors shall not solicit or accept, directly or indirectly, any gifts, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who is seeking to obtain contractual or other business or financial relations with the Association, unless full disclosure is made to, and approved in writing by the Board.
8. **Directors may not endorse or comment on Board candidates during the election cycle.** This includes comments made in writing or verbally.
9. **No Director shall engage in any writing, publishing or speech making that defames any other member of the Board, community leader or resident of the community.** Personal attacks against Directors or other community leaders, owners, residents or CAM management are prohibited and are not consistent with the best interest of the community.

ENFORCEMENT

Bylaws 3.5 “Any Director who has three consecutive unexcused absences from Board meetings, who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, who fails or refuses to complete the training requirements referenced in section 3.1, or who is shown to be in violation of the governing documents or any written policy or resolution adopted by the Board, may be removed by the vote of at least two-thirds (2/3) of all Directors at a regular or special meeting of the Board at which a quorum is present.”

First step: Call an executive session meeting of the Board to present the Director with a written list of the behaviors the Director is engaging in. This is followed up with a discussion on how the behavior could harm the Association and ways to positively address the behavior.

Second step: If the Director continues to engage in damaging behavior, then the Director’s action is discussed at an open meeting of the Board. A document should detail the areas of concerns and ways the Director can address the behavior.

Third step: If the Director continues this behavior, then the Board will conduct a formal process beginning with an official letter of censure to the Director. The Censure Letter may list the areas of concern and the ramifications if the behavior continues.

Last step: The Board has two remaining options: A) The calling of a special meeting of the Board to discuss the removal of the Director or b) Filing a breach of fiduciary duty lawsuit.

EXHIBIT 4

I. PARKIN

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GRAND RESIDENTS, PLEASE READ AND PASS TO FRIENDS AND NEIGHBORS

All information below is fully verifiable by various BOD members and/or Committee Chairs and members and/or our General Manager and/or various CAM employees and Grand Residents and/or Video footage from various meetings.

Volume 1, more to come in the following weeks

Do you want to reduce the reckless waste of YOUR community funds? Please read on if you do, to date our community has incurred in only about 7 months approximately **\$57,000 plus** (this number grows almost weekly) of legal expenses caused by one Directors actions. **THIS IS YOUR MONEY BEING WASTED!**

Support the recall of Director Tom Gusich by emailing your name, address and CAM number to recalltomgusich@gmail.com or sign a paper petition

The overriding issue is that Tom's main focus seems to be the domination of the Board and staff in order for him to take over control of the Association through a recall or the next election.

To that end, Tom engages in the following misconduct:

Rather than working as a team player, he grandstands at open Board meetings, making false accusations and misleading statements in furtherance of his personal agenda.

A. A typical example of this was when Tom loudly and falsely accused the Board and staff of violating the purchasing policy. Even after the Board explained to him in executive session that he was wrong and there was no violation of the policy, he refused to acknowledge that he did anything wrong and openly stated that he would continue to use these tactics.

B. Tom employed a similar strategy during his campaign. For example, during the very first candidate gathering in the Aqua Fria room at Cimarron he theatrically slammed the table and yelled that he gets upset when directors lie even though he had no evidence to back up such a statement. His outburst was triggered by Director White making a statistical

reference to the size of The Grand. He misunderstood the reference; such a matter would be a simple oversight for most folks but he insisted that he had the "correct" information even though he has never produced any evidence. In the debate, when asked a question he did not like, Tom yelled at the moderator and stated he did not have to answer the question because "this is America".

C. Tom repeatedly shouts and pounds the table like the former Soviet dictator Nikita Khrushchev. For example, when an owner questioned his behavior as a director, Tom yelled and shouted in order to shut down the owner's right to voice his opinion. He claims this is because he has a hearing issue but everyone has heard him speak many times in a normal volume during meetings without screaming as well as pounding the table, screaming at other BOD members and/or residents and pounding your fist on the table as you do is **not** a symptom of hearing loss.

D. Tom has often withheld information that he may see as relevant to an issue to further his own personal agenda. A director should act in the best interest of the community and would certainly provide the Board or the GM with any pertinent helpful information. However, Tom will often keep quiet or withhold information until an open meeting where he attempts to use this information to ambush the Board or CAM staff.

E. An example of this is the irrigation project. Tom was in the executive session with the Board, counsel, staff and consultant. Tom made a single suggestion to add one provision to the contract. His suggestion was integrated into the contract. However, since that meeting took place, he has repeatedly criticized many aspects of the project even though he did not raise these concerns at the executive session where the contract was approved. For example, Tom recently stood up at a town hall and criticized the fact that the contract does not have drawings attached as an exhibit. However, Tom never mentioned this in the meeting, which begs the question of why Tom never mentioned this if he thought it was important. Tom did not mention at the Town Hall that the contract has many pages of very specific instructions to the contractor or that the project is ahead of schedule and on budget. However, if Tom really believes that drawings were necessary, then he

breached his duty to the community by not raising this issue at the appropriate time.

CAMERON
EXECUTIVE

F. Tom will often make bold allegations without providing any evidence to back up his statements. When asked for evidence, he will refuse to provide it. He will often present his opinion as a fact rather than the opinion of a single person.

G. Tom routinely makes statements to the community that the staff is not doing their jobs or is not qualified to do their jobs. Similarly, Tom often falsely accuses staff of not listening to his suggestions. This is all an effort to undermine the community's support for the staff to what means we can only speculate.

H. Tom routinely exaggerates issues in order to aggrandize himself to the community. So far, none of the issues that he is raising or the projects that he is critical of have had any negative consequences for the community. Rather, it is fear-mongering based on hypothetical speculation.

I. Tom made a comment at an open meeting to lead people to believe that he knew the cause of the fire at *The Falls*. The fire investigation is still on-going and no determination has been made by the professionals working on this issue. Claiming that a particular entity is responsible for the fire at this point is reckless and could expose the community to liability which could translate in tremendous cost for the community.

J. When the GM announced the retirement of a key staff member early in Tom's tenure, Tom theatrically slammed his hand down on the table, stood up and walked out of the meeting, leaving everyone to wonder what was going on. After some time, he returned without apologizing for his disruptive outburst.

BOD
TRAMA

Having read this, ask yourself this question: is this the right person to fill the important role of Director for The Grand?

recalltomgusich@gmail.com

email your name, address and CAM number to the email address above!

EXHIBIT 5

New Email

recall petition
Recalltomgusich@gmail.com

Results By Date ↑

Last Week

recall petition
Recall Gusich Peti... Tue...
Thanks for your adding your
Inbox

Search Complete.

Recall Gusich Petition Re: Recall

recall petition <recalltomgusich@gmail.com>

To [Redacted]

You replied to this message on 2/4/2025 7:24 PM.

Summarize

Tue 2/4

Thanks for your adding your name to the virtual petition. We have counted your email as your signature (one per lot). Please DO NOT also sign a paper copy, to avoid double counting. Please tell your neighbors and friends to join the campaign to SAVE GRAND! Just have them send an email to recalltomgusich@gmail.com with their address and CAM# and they will be counted also. Every day we are closer to returning Grand to a cohesive, community-oriented HOA, thanks to neighbors like you.



EXHIBIT 6

To: Doug Brady

Try the new Outlook Off

New Email

Doug Brady
doug4grand@gmail.com

Results By Date

Last Week

doug4grand@gmail.c... Tue 2/4
Recall
Doug, A recall is just more

Search Complete.

Recall

To: doug4grand@gmail.com

Summarize

Tue 2/4

Doug,
A recall is just more division. Let the voters sort this out in the election. I got an auto reply saying I joined in the recall which I don't.



EXHIBIT 7

New Email

Favorites

RP recall petition
Recalltomgusich@gmail.com

Results By Date

Last Week

recall petition
Re: Recall Gusich Petition Re: R... Tue 2/4
I did not agree with the recall

Recalltomgusich@gm...

Recall

Doug, I think a recall is just

Search Complete.

Tue 2/4

Re: Recall Gusich Petition Re: Recall

To recall petition

Summarize

Tue 2/4

I did not agree with the recall please remove me. There is no petition attached

On Feb 4, 2025, at 6:15 PM, recall petition <recalltomgusich@gmail.com> wrote:

Thanks for your adding your name to the virtual petition. We have counted your email as your signature (one per lot). Please DO NOT also sign a paper copy, to avoid double counting. Please tell your neighbors and friends to join the campaign to SAVE GRAND! Just have them send an email to recalltomgusich@gmail.com with their address and CAM# and they will be counted also. Every day we are closer to returning Grand to a cohesive, community-oriented HOA, thanks to neighbors like you.

EXHIBIT 8



Audra Sinclair <audrasplanet@gmail.com>

Community Update from the Board

1 message

The Grand Board of Directors <noreply@scgcam.com>
Reply-To: noreply@livegrandaz.com
To: audrasplanet@gmail.com

Wed, Jan 29, 2025 at 1:23 PM

Can't read or see images? [View this email in a browser.](#)







January 29, 2025

Dear Residents,

On 1/22/25, Director Tom Gusich filed a lawsuit against the Association.

For the past several months, the Board has tried to work with Tom to address misconduct that violates our governing documents. The Board did not remove Tom from the Board but has instead tried multiple times to get Tom to agree to mediation to address these issues. Unfortunately, Tom has decided to sue the Association instead.

This means that he is suing all of us.

He sued to ask the Court to invalidate the Standard of Behavior for Board Directors that he voted in favor of after the Board made revisions that he suggested. He is also demanding that the Association pay all his attorney's fees since the time that the Board first approached him about his behavior.

It is sad that a fellow Owner and Director would put his personal agenda first and drag the Association into litigation. We have 20 days to prepare a response, and our legal team will do so.

Sincerely,

René Mitchell
Board President



[Unsubscribe from all The Grand Community Association eNotifications.](#)

EXHIBIT 9



Audra Sinclair <audrasplanet@gmail.com>

Important Update: Recall Vote for Board Member

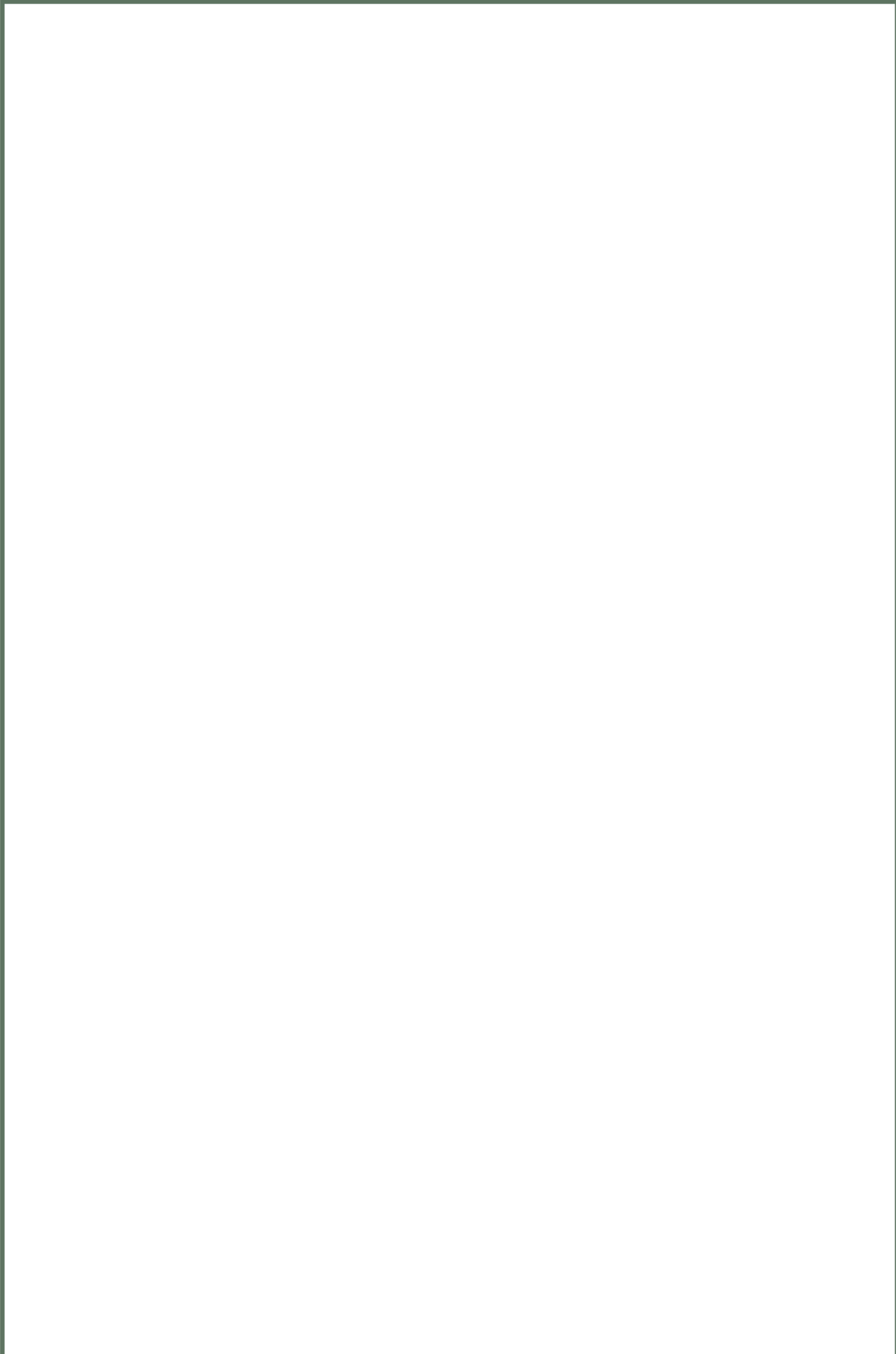
1 message

The Grand Board of Directors <noreply@scgcam.com>
Reply-To: noreply@livegrandaz.com
To: audrasplanet@gmail.com

Mon, Feb 10, 2025 at 3:31 PM

Can't read or see images? [View this email in a browser.](#)







February 10, 2025

Dear Residents,

On Friday, February 7th, a petition from a group of residents was received by CAM with 1,190 signatures to recall Director Tom Gusich. Legal counsel has confirmed that more than the minimum of 982 signatures were verified.

State law now requires that we conduct a membership meeting within 30 days of receipt of the petition.

As many of you know, Tom Gusich is the director who has sued the Association. His suit seeks to invalidate the Board Standards of Behavior that he voted in favor of. The suit also demands that the Association pay all of his attorney's fees. If this recall is successful, most of the lawsuit should become moot because Tom will no longer be on the Board.

At an Executive Session on Saturday, February 8th, the Board of Directors voted to take the following actions in accordance with ARS 33-1813 and our governing documents:

- **A meeting of the membership will be held on February 24, 2025 at 1:00pm in Sagebrush Ballroom to confirm the results of the recall vote.**
- On Wednesday, February 12th, Grand's vendor, Vote Now, will mail, and email, notices to all homeowners of record as of February 7th at 4pm, with the details of how to vote electronically, via phone, or in person at the CAM office during regular business hours.

- One vote per residence owned is allowed.
- *Absentee, phone, and electronic voting will commence on Wednesday, February 12th when you receive your unique ID, and close on Friday, February 21st at noon.*
- Vote Now will tally the votes in anticipation of the February 24th Membership Meeting.
- If you were unable to vote during the window above, paper ballots will be available at the Membership meeting on February 24th at 1:00pm, upon presentation of your CAM card, and verification that a vote has not been received for that residence.
- A minimum of 1,000 votes must be cast for the recall to be valid.
- The results of the vote will be announced at the Membership Meeting.

NEXT STEPS

- Watch for the email from Vote Now in your email on file with CAM on February 12th, and also a mailed letter at your address of record after February 12th; delivery time will vary.
- Vote using your personal code from Vote Now before noon on February 21st either electronically, via phone, or via absentee ballot.
- Attend the Membership meeting in person on February 24th at 1:00pm in the Sagebrush Ballroom to hear the results of the recall vote.
- An announcement will be sent electronically via a Community Update to all residents directly after the meeting on February 24th.
- Additional information related to this recall can be found on the community website under Community Updates on the home page once you login: www.livegrandaz.com

Please address any questions to the General Manager's office at: administration@livegrandaz.com

Thank you for your attention to this important matter.

Sincerely,

The Board of Directors

[Unsubscribe from all The Grand Community Association eNotifications.](#)

EXHIBIT 10



Audra Sinclair <audrasplanet@gmail.com>

Sun City Grand Recall Vote 2025

Sun City Grand Ballot <elections@vote-now.com>
Reply-To: support@vote-now.com
To: Audra Sinclair <audrasplanet@gmail.com>

Wed, Feb 12, 2025 at 5:16 PM

Sun City Grand Recall Vote 2025

SUN CITY GRAND COMMUNITY ASSOCIATION

SPECIAL MEMBERSHIP MEETING NOTICE

NOTICE IS HEREBY GIVEN THAT THE BOARD OF DIRECTORS OF SUN CITY GRAND COMMUNITY ASSOCIATION (THE □ASSOCIATION□) HAS CALLED A SPECIAL MEETING OF THE MEMBERS OF THE ASSOCIATION TO BE HELD AS FOLLOWS:

Meeting Date: Meeting Time: Meeting Location:

Monday, February 24, 2025 1:00pm Sagebrush

To: Audra Sinclair
79-26540 Hwy 11

The purpose of the Special Meeting is to vote on the recall of Board Member Thomas Gusich.



To vote online, please click here to open your ballot

If you would prefer to type in the web address manually, please go directly to the following URL in your browser (do not use the search box) and then enter your unique voter registration code (which constitutes your electronic signature) :

<https://vtnw.com/go/SCG/>

Voter registration code: 2986 6628 98215

Vote by telephone. You may call (844) 797-4575, 7:00 am to 4:00 pm Arizona time. Enter your voter registration code (2986 6628 98215).

An Absentee Ballot has also been mailed to you.

Thank you for your participation. Voting ends at noon on February 21, 2025.

The Grand Election Team

You have received this email (to audrasplanet@gmail.com) from Vote-now.com because you are a voting member of the Sun City Grand Community Association. Vote-now is acting as the election agent for this organization. If you would prefer to abstain from participating and receive no additional information from Vote-now concerning this election, please use this link:

<https://vtnw.com/go/abstain/?c=2986662898215&l=hoa/SCGrand/>

Vote-now.com LLC, [13245 Atlantic Blvd., Suite 4-358](#), Jacksonville, FL 32225 USA

EXHIBIT 11

SUN CITY GRAND COMMUNITY ASSOCIATION, INC.
SPECIAL MEMBERSHIP MEETING
HYBRID (In-Person & Via ZOOM)
Sagebrush Ballroom – Sonoran Plaza
MONDAY, FEBRUARY 24, 2025, 1:00 pm
(Subject to additions/deletions just prior to the meeting)

- I. Establish Quorum and Call to Order** – *René Mitchell, President*

- II. Announcements** – *René Mitchell, President*
 - 1. Please mute electronic devices unless you are called upon to speak.
 - 2. Residents may comment once per agenda topic, as they are listed, for a maximum of 2 minutes.
 - 3. Closed captioning is enabled for this meeting. Please hit the closed captioning icon to enable it on your device. Depending on the device you use, it could appear slightly different.
 - 4. Board President opening remarks.

- III. New Business – Curtis Ekmark, Esq.**
 - 1. ARS 33-1813 – In person voting.
 - 2. Tally of in-person voting.
 - 3. Announcement of voting results.

- IV. Adjourn**

EXHIBIT 12

From: "Jon Dessaules" <jdessaules@dessauleslaw.com>

To: "Curtis Ekmark" <curtis.ekmark@chdblaw.com>

Date: 1/14/2025 12:48:36 PM

Subject: Re:

Curtis:

Please make sure you include Joe and Hilary. As I've told you in the past, your emails sometimes go to junk folders if you have nothing in the subject line. Perhaps that was your intention with this one. We will – again – get you dates. Maybe we'll get a response this time around.

With respect the balance of your email, it sounds like you're asking us for permission to speak directly with Mr. Gusich about this dispute. I see no reason why an executive session would be problematic.

I'm confident that most attorneys are capable of engaging in an executive session without delving into the intra-director dispute tht exists. It literally happens all the time. As you appear to have created the intra-director dispute, however, I do appreciate the predicament in which you have placed yourself. Nevertheless, it is a contrived excuse to attempt to sideline Mr. Gusich from the business of the Association and a violation of *McNally*. We will oppose that.

If you are incapable or unwilling of advising the full board on legal matters that do not pertain to the code of conduct and the intra-director dispute, you may want to consider finding your client a lawyer who can.



Jonathan A. Dessaules
Attorney
Dessaules Law Group

 jdessaules@dessauleslaw.com
 602-274-5400 (main)
 602-274-2360 (direct)
 7243 N 16th Street
Phoenix AZ 85020
 dessauleslaw.com



This email is for the intended recipient only. If you believe you have received this e-mail in error, we ask that you notify the sender and then delete the email.

From: Curtis Ekmark <curtis.ekmark@chdblaw.com>
Date: Monday, January 13, 2025 at 9:22 AM
To: Jon Dessaules <jdessaules@dessauleslaw.com>
Subject: <no subject>

In response to your letter dated January 8, we will have to agree to disagree regarding your allegation of false statements.

Please provide me available mediation dates for February and I will check with the Board.

With regard to executive sessions, your proposed solution is unworkable for multiple reasons.

2/19/2025

First, neither I nor the Board want to be in a position where we are falsely accused of going beyond the scope of your conditional approval. Second, nobody knows what the exact discussion will be in any executive session until it happens. Third, it is impossible to define exactly what is “unrelated to the dispute” or “anything that is related to the issues raised in our previous letters.”

The only workable solution is to either have you agree to allow me to meet with Tom in executive sessions or have Tom not attend those executive sessions where I attend. He can still attend any open meeting and he can still attend any executive session that I do not attend.

Frankly, it was unnecessary for Tom to retain an attorney as the Board has not taken any action against Tom. He made that choice and you threatened to sue the Association. It is not fair to the Board to demand that they give up their legal rights to counsel to executive sessions just because Tom decided to hire an attorney and threaten to sue the Association.

God Bless,

Curtis Ekmark, Esq.
Direct: 480-427-2822
Curtis.Ekmark@chdblawn.com
Licensed in AZ

CHDB Law LLP

www.chdblawn.com
800.743.9324 F: 800.743.0494
Phoenix | Prescott | Tucson

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If your account is in collection, you can make a payment by credit card or ACH. Click the following link: www.hoacollection.com . Please note that a 3% surcharge will be applied to all credit card charges and a \$2 convenience fee will apply to all e-check payments.

EXHIBIT 13

- 99+
- Compose**
- Mail**
- 1
- Chat
- Meet
- Inbox** 178,269
- Starred
- Snoozed
- Important
- Sent
- Drafts** 135
- Categories
- Social** 11,585
- Updates** 166,316
- Forums** 4,412
- Promotions** 378,821
- More

- Labels**
- Notes
 - Personal
 - SCG HOUSE** 1
 - Tom4grand
 - More



Because entry to the meeting room is locked, remember to TEXT JEFF HOCHMAN whe

Executive Session
Thursday, 1/16 at 4:30
Executive Conference Room

ARS33-1804, 1 Legal advice from association attorney & 2 Pending or contemplated litig

Agenda:

1. Approve minutes from 12/19 and 12/23 Executive Session-documents attached
2. Employee complaint involving Ben - documents attached
3. Verizon Cell Tower contract
4. Resident Jeff Boudine
5. Resident Tom Sullivan
6. Abate Trust Sheriff's Sale- documents attached

René Mitchell
President / Board of Directors
The Grand
Email: rene4grand@gmail.com



EXHIBIT 14

RECALL TOM GUSICH NOW

Launching Soon

Contact Us

Drop us a line!



EXHIBIT 15

Contact Us

Drop us a line!

Name

Email*

Message

Sign up for our email list for updates, promotions, and more.

SEND

This site is protected by reCAPTCHA and the Google Privacy Policy and Terms of Service apply.

