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IN THE SUPERIOR COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

SANDRA RODRIGUEZ, **Plaintiff,** vs. GARDENS GILBERT COMMUNITY ASSOCIATION an Arizona non-profit corporation; FOCUS HOA MANAGEMENT, LLC, and Arizona limited liability company; HARMIN CADIS, BROOKE SORTOR, ANNA SCHULTZ **Defendants,**	**MARICOPA COUNTY SUPERIOR COURT** **Case No.: CV2024-005940** *Judge David McDowell,* **MOTION TO COMPEL AND FOR SANCTIONS** **(Amended, Third Attempt)** *(Pursuant to Ariz. R. Civ. P. 37(a))*

TO THE HONORABLE JUDGE MCDOWELL:

Rodriguez *("Plaintiff")* respectfully moves this Court for an Order compelling Defendants to provide full and complete discovery responses and for sanctions based on Defendants' ongoing discovery violations, lack of good faith compliance, and representations inconsistent with the record relevant to Rule 26(d) compliance. This motion is filed in good faith to comply with Court orders and the Arizona Rules of Civil Procedure after unsuccessful meet-and-confer efforts and escalating discovery abuse.

I. MEMORANDUM OF FACTS

Plaintiff served written discovery from December 1, 2025 through March 1, 2026, including Requests for Production, Requests for Admission, and Interrogatories directed to Defendants and GGCA Board Members.

All deadlines under Rules 33, 34, and 36 expired without complete responses, verified interrogatories, or meaningful production. Defendants' April 14, 2026 responses consist of generalized objections and partial, collective answers relying on numerical limits and incorporation by reference rather than substantive responses. (Exh. 4)

Despite the Court's February 23, 2026 Order lifting the stay and requiring Tier 3 compliance, Defendants produced limited, largely non-responsive materials and refused to produce records related to communications, enforcement actions, governance, and decision-making. (Exh. 7) Defendants also failed to provide separate, verified responses for each Defendant, including GGCA, its current and former Board Members, Focus HOA Management, and individually named Defendants. (Exh. 7)

THE RECORDS REFLECTS ONGOING DEFICIENCES:

1. **Requests for Production:** No responsive documents were produced or identified, except the GGCA insurance policy previously provided (Exh. 21 at GARDENS0079–0087). Defendants re-sent duplicative, previously filed materials (Exhs. 18; 19 (CC&Rs); 20 (Bylaws); 22–26 (affidavits)) in lieu of responsive evidence, without identifying any new production.

   Defendants instead produced affidavits asserting actions within official capacities (Exhs. 22–26) while failing to produce supporting records or communications.
2. **Interrogatories:** Collective, unverified responses; no separate, sworn answers by each Defendant (incl. Schultz, Cadis, Sortor, GGCA Board Members, and Focus HOA Management, LLC). *(Exh 7,16)*
3. **Requests for Admission:** Responses are predominantly objection-based and qualified, including vague, ambiguous, and privilege assertions, and frequently provide conditional or partial admissions/denials rather than clear, unequivocal

answers. Several responses are ambiguous or fail to fairly meet the substance of the request, rendering them evasive and noncompliant with Rule 36(a), Ariz. R. Civ. P. (Exh. 4 (Rodriguez Follow Up Email); Exh. 16 (Defendant's Post Amendment Responses to Plaintiff's Request).

4. **Global Objections:** Repeated claims of overbreadth or burden without identifying documents or confirming their existence *(Exh 4)*

These responses fail to comply with Rules 26.1, 33, 34, and 36. See Exh. 1 (Statement of Deficiencies), which details Defendants' failure to produce documents, provide complete and verified responses, identify evidence, and comply with disclosure and discovery obligations.

Plaintiff made repeated good-faith efforts to resolve these issues. Written correspondence and the March 25, 2026 meet-and-confer identified specific deficiencies and requested compliance. (See Exhs. 5-6) During the meet-and-confer, Plaintiff repeatedly requested that Defendants complete their portion of the Joint Statement so Plaintiff could file it; Defendants, through counsel, refused, attempted to recast Plaintiff's position as noncompliance, and thereafter ignored Plaintiff's proposal. (See Exhs. 2 and 9)

Although Defendants legal counsel Shaw acknowledged Rule 26(d) compliance, then later asserted discovery issues were not discussed, which is contradicted by the transcript reflecting discussion of discovery deficiencies and related issues. (Exh. 6; Exh. 9) Defendants continue to refuse to supplement or cure deficiencies, leaving Plaintiff unable to prepare for depositions or evaluate Defendants' positions, thereby impairing Plaintiff's right to a meaningful opportunity to be heard and to prepare a defense, in violation of due process. See U.S. Const. amend. XIV; Ariz. Const. art. 2, § 4; *Brown v. Superior Court*, 137 Ariz. 327 (1983) (discovery must be applied to ensure fairness).

II. LAW

Rule 26.1 requires disclosure of all facts, witnesses, and documents supporting claims or defenses. Rules 33 and 34 require complete, verified responses and production. Rule 36 requires specific admissions or denials. Rule 26(d) prohibits delaying discovery based on sequencing arguments. Rule 37 authorizes the Court to compel discovery and impose sanctions. Arizona

courts require broad disclosure and prohibit withholding evidence while asserting defenses. *Allstate Ins. Co. v. O'Toole*, 182 Ariz. 284 (1995).

Discovery violations causing prejudice warrant intervention. *Solimeno v. Yonan*, 224 Ariz. 74 (App. 2010). Due process requires access to evidence necessary to prepare claims. *Volk v. Brame*, 235 Ariz. 462 (App. 2014). Obstructive discovery conduct supports sanctions upon a finding of fault and due process. *Zimmerman v. Shakman,* 204 Ariz. 231 (App. 2003). Privilege must be specifically asserted with a log; it does not protect underlying facts. *Samaritan Found. v. Goodfarb,* 176 Ariz. 497 (1993).

III. ARGUMENT

Defendants' failure to provide complete discovery warrants immediate intervention. First, Defendants failed to produce responsive documents or verified interrogatory responses despite expired deadlines and the Court's Tier 3 designation. (Exh. 4) This violates Rules 26.1, 33, and 34. Second, Defendants rely on blanket objections and procedural arguments to avoid discovery. Rule 26(d) prohibits delaying discovery on these grounds. Third, Plaintiff satisfied Rule 26(d) by identifying deficiencies and attempting resolution. Defendants refused to cure or provide a timeline. (Exh. 6)

Their subsequent representations are inconsistent with the record and demonstrate lack of good faith. Fourth, Defendants' noncompliance prejudices Plaintiff. Without discovery, Plaintiff cannot prepare for depositions or evaluate defenses. Arizona law recognizes that such prejudice warrants relief. Fifth, Defendants rely on incomplete disclosures and unsupported assertions without producing evidence or a privilege log. This does not satisfy Rule 26.1. Finally, Defendants' conduct reflects a pattern of obstruction, including failure to cure deficiencies and reliance on inconsistent positions. This supports sanctions under Rule 37.

Plaintiff satisfied the meet-and-confer requirement under Rule 26(d). On March 25, 2026, Plaintiff participated in a telephonic meet-and-confer with Defendants' counsel, during which Plaintiff specifically identified outstanding deficiencies in Requests for Production, Interrogatories, Requests for Admission, and Rule 26.1 disclosures. A recording and transcript of that conference exist and may be provided to the Court if necessary.

IV. MEET AND CONFER

Plaintiff satisfied Rule 26(d). On March 25, 2026, Plaintiff participated in a telephonic meet-and-confer with Defendants' counsel and identified deficiencies in Requests for Production, Interrogatories, Requests for Admission, and Rule 26.1 disclosures. The conference is documented in *Plaintiff's Certificate of Good Faith Consultation, filed April 15, 2026,* confirming the meet-and-confer and Plaintiff's request for compliance. (See Exh. 2.) Further corroborated by the transcript of the March 25, 2026 call. (See Exh. 9.) An audio recording of the call between Plaintiff and Defendants' counsel, Augustus H. Shaw IV, exists and can be provided if requested.

Defendants declined to provide substantive responses, refused to commit to a production timeline, and did not agree to cure deficiencies, resulting in no resolution. Accordingly, the record establishes Rule 26(d) compliance and that Defendants were given an opportunity to resolve the dispute before Court intervention. *(See Exh. 9; Transcript in Support Good Faith Certificate Exhibit 2)*

V. REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

1. Order Defendants to provide full and complete discovery responses by a date certain;
2. Require verified interrogatory responses from each Defendant;
3. Deem Requests for Admission admitted where responses are deficient;
4. Preclude Defendants from using undisclosed evidence;
5. Order Defendants to cure all discovery deficiencies before any settlement conference;
6. Require good faith settlement participation only after full discovery compliance;
7. Continue any settlement conference until discovery is complete;
8. Find Defendants failed to comply with Rule 26(d);
9. Consider Defendants' inconsistent representations in determining sanctions;
10. Impose sanctions under Rule 37; and grant any further relief necessary.

Respectfully submitted,



Sandra Rodriguez

VI. EXHIBITS

1. **Exhibit 1** – Statement of Deficiencies, Table I (Production Records), Table II (Request for Uniform and Non-Uniform Interrogatories), and III (Request for Admissions)
2. **Exhibit 2** – Good Faith Consultation held March 25, 2026, and filed on April 15, 2026
3. **Exhibit 3** – Proposed Order, Granting Motion to Compel and Sanctions
4. **Exhibit 4 (Defendants' Responses):** Demonstrates blanket objections, refusal to respond beyond numerical limits, and failure to produce documents tied to specific requests. (4/14/2026)
5. **Exhibit 5 (Meet-and-Confer Record):** Confirms Plaintiff identified specific deficiencies during the March 25, 2026 conference. (4/14/26)
6. **Exhibit 6** ***(Rodriguez Follow-up Correspondence):*** Documents Defendants' refusal to cure deficiencies after meet-and-confer. (04/14/26)
7. **Exhibit 7 (Initial Noncompliance Record):** Establishes discovery deficiencies have remained unresolved since December 2025. (12/31/25)
8. **Exhibit 8 (Motion to Dismiss Meet-and-Confer Correspondence):** Demonstrates Defendants pursued dispositive motion practice while discovery remained outstanding and unproduced, despite Plaintiff's explicit notice of deficiencies. (03/25/26)
9. **Transcript Summary and Sworn Affidavit** (March 25, 2026)
   Shows a meet-and-confer occurred, with discovery and deposition discussed, including counsel's Rule 26(d) admission.
10. **Exhibit 10 (Shaw Correspondence – Discovery Dispute and Non-Receipt Claim, April 23, 2026):**
    Demonstrates Defendants' shifting position regarding discovery, including claims that Plaintiff failed to serve individual discovery requests despite prior service, while simultaneously asserting compliance and attaching generalized materials. Also reflects denial of prior meet-and-confer discussions and continued refusal to cure identified deficiencies.
11. **Exhibit 11 (Defense Counsel Email – Joint Certification Request):**
    Shows Defendants' attempt to obtain Plaintiff's approval for a joint settlement certification despite unresolved discovery and disclosure deficiencies.

12. **Exhibit 12 (Proposed Joint Request and Certification of Readiness for Settlement Conference):**

    Reflects Defendants' proposed filing representing readiness for settlement conference without satisfying Rule 16 requirements or completing discovery.

13. **Exhibit 13 (Plaintiff's Initial Rule 26.1 Disclosure and Discovery Requests – December 1, 2025):**

    Establishes timely service of initial disclosures and written discovery (RFPs, interrogatories, and RFAs), triggering Defendants' obligation to respond within 30 days.

14. **Exhibit 14 (Plaintiff's Second Request for Production – December 22, 2025):**

    Demonstrates supplemental, narrowly tailored discovery requests and Defendants' continued failure to provide timely responses or production.

15. **Exhibit 15 (Defendants' Second Supplemental Disclosure Statement – April 13, 2026)**

    Shows Defendants' reliance on generalized disclosures and legal theories without producing supporting documents or evidence as required under Rule 26.1.

16. **Exhibit 16 (Post-Amendment Discovery Responses – April 14, 2026):**

    Demonstrates Defendants' blanket objections, improper reliance on numerical limits, and refusal to provide complete, verified responses or responsive document production.

17. **Exhibit 17 (Plaintiff's Response to Joint Certification and Cease-and-Desist – April 22, 2026):**

    Confirms Plaintiff's objection to inaccurate settlement readiness representations and documents ongoing discovery deficiencies preventing meaningful settlement.

18. **Exhibit 18 (Shaw Email Response – March 10, 2026):**

    Demonstrates counsel's response to Plaintiff's follow-up regarding missing discovery, including transmission of attachments without curing identified deficiencies.

19. **Exhibit 19 (CC&Rs – Re-sent by Defendants):**

    Shows duplicative production of governing documents already filed with the Court, not responsive to Plaintiff's discovery requests.

20. Exhibit 20 (Bylaws):

Demonstrates additional duplicative governing documents re-sent in lieu of producing responsive discovery.

21. Exhibit 21 (GGCA Insurance Policy):

Reflects the only identifiable document produced (GARDENS0079–0087), previously provided, with no new or supplemental production.

22. Exhibit 22 (Affidavit – Defendant/Representative):

Shows Defendants' reliance on affidavit testimony asserting actions within official capacities without producing supporting records.

23. Exhibit 23 (Affidavit – Defendant/Representative):

Further demonstrates use of conclusory affidavits in place of responsive documents or underlying evidence.

24. Exhibit 24 (Affidavit – Defendant/Representative):

Confirms continued reliance on affidavit assertions without corresponding document production.

25. Exhibit 25 (Affidavit – Defendant/Representative):

Demonstrates lack of supporting records despite sworn statements regarding conduct at issue.

26. Exhibit 26 (Affidavit – Defendant/Representative):

Establishes pattern of substituting affidavits for required discovery responses and document production.

VIII. CERTIFICATE OF SERVICE

I served copies of this *Motion to Compel and Request for Sanctions (Amended, Third Attempt)* for on all parties of record via U.S. Mail.

OPPOSING PARTY INFORMATION

DEFENDANTS:

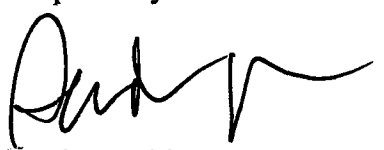
- Gardens Gilbert Community Association
- Focus HOA Management, LLC
- Harmin Cadis
- Brooke Sortor
- Anna Schultz

- **Address**: 4135 E. Power Road, Suite 133, Mesa, Arizona 85212

DEFENDANT'S LEGAL COUNSEL:

- **Name**: Augustus H. Shaw IV
- **Firm**: Shaw & Lines, LLC
- **Address**: 1490 S. Price Road, Suite 318 Chandler, Arizona 85286

Respectfully submitted this 28th day of April 2026.



Sandra Rodriguez

EXHIBIT 1

STATEMENT OF DEFICIENCES AND TABLES IN SUPPORT OF MOTION TO COMPEL

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IN THE SUPERIOR COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

SANDRA RODRIGUEZ, **Plaintiff,** vs. GARDENS GILBERT COMMUNITY ASSOCIATION an Arizona non profit corporation; FOCUS HOA MANAGEMENT, LLC, and Arizona limited liability company; HARMIN CADIS, BROOKE SORTOR, ANNA SCHULTZ **Defendants,**	**MARICOPA COUNTY SUPERIOR COURT** **Case No.: CV2024-005940** *Judge David McDowell,* **STATEMENT OF DEFICIENCES IN SUPPORT OF MOTION TO COMPEL (Third Attempt)** *(RULE 2.7)*

TO THE HONORABLE JUDGE MCDOWELL:

Pursuant to Rule 2.7, Ariz. R. Civ. P., Plaintiff identifies the following discovery deficiencies by setting forth (A) the request, (B) the response, and (C) the reasons the response is deficient.

I. REQUESTS FOR PRODUCTION – FAILURE TO IDENTIFY OR PRODUCE DOCUMENTS

(A) Request:

Plaintiff requested all documents, communications, ESI, and records relating to Plaintiff's claims, Defendants' conduct, HOA governance, enforcement actions, financial transactions, third-party/vendor involvement, surveillance, and all materials supporting Defendants' claims and defenses. As detailed in Table I – Requests for Production (Rule 34), including specific requests categorized by Board control, financial records, communications, enforcement, surveillance, governance, and architectural records

(B) Response:

Defendants objected that requests are *"overbroad," "irrelevant," or "not proportional,"* and stated documents would not be produced, were *"previously produced,"* or that no responsive documents exist. *(Exh. 16, Defendants' Post-Amendment Discovery Responses, reflecting objections and limited responses to Requests for Production, Interrogatories, and Requests for Admission.)* As reflected in Table I, Defendants provided only limited responses to RFP 1 and asserted objections or *"no documents exist"* responses for RFPs 2–10, and refused to respond to all remaining requests (RFPs 11–50) based on purported Tier limits.

(C) Deficiency:

- No documents identified or produced
- No Bates numbers or production references
- No statement whether documents are being withheld
- No identification of custodians or search efforts
- No documents supporting Defendants' defenses

Additional deficiencies supported by the record include:

- Failure to produce insurance policies for Focus HOA Management, LLC and any policies covering individual Defendants (Schultz, Cadis, Sortor)

- Failure to produce camera and audio footage within Focus HOA Management, LLC
- Failure to produce vendor or third-party involvement records
- Failure to produce metadata (including Facebook, Nextdoor.com, or similar platforms)
- Failure to produce records identifying surveillance or monitoring activities involving Plaintiff

Defendants assert that responsive documents exist yet refuse to reproduce them ("will not be reproduced") without identifying the materials or where they may be located. The record reflects a complete lack of production despite requests pending since December 1, 2025. This conduct violates Rule 34(b) and Rule 26.1. These deficiencies are further itemized and supported on a request-by-request basis in Table I, including Defendants' failure to identify documents, custodians, search efforts, or produce responsive materials.

II. REQUESTS FOR PRODUCTION – IMPROPER BOILERPLATE OBJECTIONS

(A) Request:

Requests seeking documents supporting Defendants' conduct, defenses, communications, and enforcement actions

(B) Response:

Defendants asserted repeated boilerplate objections without explanation. *(See Exh. 16)* See Table I, reflecting uniform objection patterns across RFPs 2–10 and categorical refusal to respond to RFPs 11–50.

(C) Deficiency:

- Objections are not request-specific
- No explanation of burden, scope, or proportionality
- No partial production provided

Defendants rely on generalized, boilerplate objections while purporting to respond, without providing request-specific explanations or producing responsive materials. As shown in

Table I, Defendants assert identical boilerplate objections across multiple requests without request-specific justification or production, demonstrating systemic noncompliance. This constitutes improper boilerplate objections and noncompliance with Arizona discovery rules, in violation of Rule 34(b)(2) and Rule 26(g), Ariz. R. Civ. P.

III. INTERROGATORIES – FAILURE TO PROVIDE COMPLETE ANSWERS

(A) Request:

Plaintiff served Uniform and Non-Uniform Interrogatories requiring identification of witnesses, facts, documents, insurance, and factual bases for defenses as detailed in Table II – Uniform and Non-Uniform Interrogatories (Rule 33), including interrogatories directed to all Defendants and individual Board members.

(B) Response:

Defendants provided incomplete responses and/or referred generally to disclosures. As reflected in Table II, Defendants provided incomplete, evasive, or boilerplate responses and frequently referred generally to disclosures without identifying supporting facts or documents

(C) Deficiency:

- No complete factual responses
- No identification of all persons with knowledge
- No identification of documents supporting responses

Additional deficiencies:

- Failure to provide names, addresses, and contact information for witnesses
- Failure to identify internal Focus HOA Management personnel involved
- Failure to identify third parties or vendors involved
- Failure to identify individuals sent to Plaintiff's residence, including names, vehicle information, and purpose.

These deficiencies are itemized in Table II, including failure to identify witnesses, facts, communications, decision-makers, and supporting evidence for defenses. Violates Rule 33 and Rule 26.1

IV. INTERROGATORIES – FAILURE TO PROVIDE VERIFIED RESPONSES

(A) Request:

Interrogatories required verified responses under oath from each Defendant.

(B) Response:

Responses were provided through counsel without verification by each Defendant. *(See Exh. 16)* As shown in Table II, interrogatory responses were not verified by individual Defendants and fail to identify the responding party.

(C) Deficiency:

- Not signed under oath by each answering party
- No certification by individual Defendants

Violates Rule 33(b)(2), (4)

V. REQUESTS FOR ADMISSION – UNSUPPORTED DENIALS

(A) Request:

Requests for Admission addressing Defendants' conduct, communications, and actions toward Plaintiff as detailed in Table III – Requests for Admission (Rule 36), addressing Defendants' conduct, communications, financial actions, and enforcement practices.

(B) Response:

Defendants denied requests without identifying supporting facts or documents. *(Exh. 16.)* As reflected in Table III, Defendants uniformly denied requests without explanation, factual support, or identification of evidence.

(C) Deficiency:

- No factual basis for denials
- No supporting documents produced
- No reasonable inquiry stated

As shown in Table III, Defendants' denials fail to comply with Rule 36(a)(4) by not stating supporting facts, identifying evidence, or describing any reasonable inquiry. Violates Rule 36 and Rule 26.1

VI. RULE 26.1 DISCLOSURE DEFICIENCIES

(A) Requirement:

Defendants must disclose all facts, witnesses, and documents supporting their claims and defenses. As reflected across Tables I–III, Defendants' disclosures fail to identify documents or evidence supporting their responses or defenses.

(B) Response:

Defendants provided a narrative disclosure statement without identifying supporting evidence or documents. (Exh. 16)

(C) Deficiency:

- No documents identified
- No evidence supporting defenses
- No linkage between facts and claims

Violates Rule 26.1(a)

VII. FAILURE TO RESPOND ON BEHALF OF ALL DEFENDANTS

(A) Request:

Discovery was directed to each Defendant individually, including Focus HOA Management, LLC, Anna Schultz, Brooke Sortor, Harmin Cadis, and GGCA Board Members (current and former).

(B) Response:

Responses were provided collectively as a group, not separately by each Defendant. *(See Exh. 16)*

(C) Deficiency:

- No individual responses by Focus HOA Management, LLC, Anna Schultz, Harman Cadis, or Brooke Sortor.
- No differentiation of knowledge, conduct, or possession of responsive information
- No individually verified responses under oath

Under Rule 33, each answering party must provide full and separate answers under oath. Under Rule 34, each party must respond to requests directed to that party and identify responsive materials within its possession, custody, or control. Under Rule 26.1, each Defendant must disclose its own facts, witnesses, and documents.

Collective responses that fail to identify the responding Defendant are noncompliant and prevent determination of individual liability and control of evidence. Violates Rule 33, Rule 34, and Rule 26.1, Ariz. R. Civ. P.

VIII. FAILURE TO PRODUCE DISCOVERY DOCUMENTS AFTER NOTICE OF DEFICIENCIES

(A) Request:

Plaintiff requested complete production and identified specific deficiencies through written correspondence, emails, and meet-and-confer efforts including deficiencies specifically identified in Tables I–III.

(B) Response:

Defendants refused to supplement or cure after notice.

(C) Deficiency:

- No supplementation of discovery responses
- No corrective production of responsive documents
- Failure to engage in meaningful efforts to resolve deficiencies without court intervention

Plaintiff repeatedly notified Defendants of specific deficiencies through written correspondence, emails, and meet-and-confer efforts. (See Exh. 4, Plaintiff's correspondence documenting notice of deficiencies and request for compliance.) Despite this notice, Defendants refused to supplement or correct their responses and required court intervention to prompt compliance. This deficiency is reflected across Tables I–III, where responses are provided collectively without identifying which Defendant possesses responsive information or provided each response.

Under Rule 26(e), Defendants had a continuing duty to supplement or correct incomplete responses. Their failure to do so after notice constitutes noncompliance and supports relief under Rule 37. Violates: Rule 26(e) and Rule 37, Ariz. R. Civ. P.

IX. SHAW'S SHIFTING POSITION REGARDING SERVICE OF DISCOVERY

(A) Request:

Plaintiff served discovery requests on all Defendants, including individual Defendants, via U.S. Priority Mail and direct email. (See Exhs 13-14)

(B) Response:

Defendants' counsel now claims Plaintiff *"has not specifically provided"* discovery requests to individual Defendants, including Anna Schultz, Brooke Sortor, and Harmin Cadis. (See Exh 10)

(C) Deficiency:

- Contradicts record of prior service and communications regarding discovery requests
- Asserts requests were not "specifically provided" without evidentiary support or clarification
- Shifts position while simultaneously attaching materials and asserting compliance
- Effectively conditions responses on re-service despite prior meet-and-confer and participation in discovery
- Inconsistent with Defendants' participation in discovery, disclosures, and meet-and-confer efforts

Demonstrates shifting positions and lack of reasonable inquiry under Rule 26(g); Intentional failure to respond to discovery requests.

X. EMAIL RECORD CONFIRMING NONCOMPLIANCE

(A) Conduct:

Plaintiff notified Defendants of discovery deficiencies and requested compliance.

(B) Response:

Defendants failed to cure deficiencies and continued litigation activity, including issuing a deposition notice.

(C) Deficiency:

- No response to deficiency notices
- Continued noncompliance despite notice
- Demonstrates willful noncompliance

XI. CLAIM OF NON-RECEIPT OF DISCOVERY

(A) Request:

Plaintiff served Interrogatories, Requests for Production, and Requests for Admission on all Defendants via email and USPS Priority Mail. *(See Exhs. 13, 14; Email Proof of Service)*

(B) Response:

Defendants' counsel, Shaw, now asserts on behalf of Defendants—while shifting positions—that certain discovery requests were not received. *(See Exh. 10)*

(C) Deficiency:

- No affidavit or competent evidence supporting the claim of non-receipt
- No explanation of how service via email and USPS Priority Mail was not received
- No request to re-serve discovery despite alleged non-receipt
- Inconsistent with Defendants' prior participation in discovery, correspondence, and meet-and-confer efforts
- Defendants acknowledged discovery disputes and engaged in communications regarding those same requests, undermining any claim of non-receipt
- Defendants' counsel has provided inconsistent explanations regarding service and did not assert non-receipt until after Plaintiff involved the Court and documented the meet-and-confer

The shifting assertion of non-receipt is unsupported by the record and does not excuse Defendants' failure to respond in violation: Rule 26(g), Ariz. R. Civ. P.

XII. SETTLEMENT CONFERENCE – LACK OF GOOD FAITH

(A) Requirement:

Settlement certification under Rule 16(i), Ariz. R. Civ. P., Administrative Order 2023-009, and the Court's February 3, 2026 Scheduling Order requires that parties: (1) complete sufficient discovery and disclosures to meaningfully evaluate the case; (2) have no pending discovery disputes that would interfere with settlement; and (3) have engaged in good-faith settlement discussions. *(See Exh. 12)*

(B) Response:

Defendants attempted to proceed with a Joint Request and Certification of Readiness for Settlement Conference, asserting that discovery necessary for meaningful settlement was complete and that the parties had engaged in good-faith settlement discussions, while transmitting the certification to Plaintiff for approval as a joint filing pursuant to the Court's February 3, 2026 Scheduling Order requiring certification by April 30, 2026. *(See Exh. 11)*

The certification expressly avows: *(See Exh. 12)*

- Discovery and disclosure are complete for purposes of settlement
- The parties engaged in and exhausted good-faith settlement discussions
- Any private mediation efforts were completed

At the time of this certification, the record reflects:

- Outstanding discovery served December 1 and December 22, 2025 remained unresolved. *(See Exh. 7, 13, 14)*
- Defendants failed to produce complete discovery responses or documents. *(See Exh. 8)*
- Plaintiff documented ongoing discovery deficiencies and lack of production. *(See Exh. 17)*

- Defendants were placed on notice of these deficiencies yet refused to cure or supplement. *(See Exh. 10)*

(C) Deficiency:

- Certification inaccurately represents that discovery necessary for settlement is complete despite known, ongoing discovery deficiencies and incomplete Rule 26.1 disclosures *(See Exh. 12)*
- Attempt to certify readiness for settlement without satisfying prerequisite discovery obligations required by the Court's February 3, 2026 Scheduling Order. *(See Exh. 12)*
- Certification falsely states that the parties engaged in good-faith settlement discussions when no meaningful negotiations occurred, despite Plaintiff initiating settlement efforts that were not substantively addressed. *(See Exh. 12)*
- Defendants did not initiate or engage in direct good-faith settlement communications with Plaintiff to attempt resolution prior to certification. *(See Exh. 17)*
- The record reflects that Defendants' counsel acknowledged uncertainty regarding *"good faith"* discussions and expressed willingness to consider settlement only after certification was pursued, demonstrating awareness that meaningful negotiations had not occurred at the time of certification. *(See Exh. 10)*
- No meaningful engagement in good faith settlement efforts.
- Attempt to obtain Plaintiff's approval of a *"joint"* certification that does not reflect Plaintiff's position or the actual procedural posture. *(See Exh. 11)*
- Inclusion of private mediation and readiness language not required by, and inconsistent with, the Court's February 3, 2026 Scheduling Order.
- Inability to evaluate claims or defenses due to withheld evidence. (See Exhs 12-17)
- No meaningful settlement is possible without access to required discovery and disclosures. *(See Exh 10)*
- Attempt to proceed with settlement despite known, documented, and uncured discovery deficiencies. *(See Exh. 11)*

- Record reflects simultaneous pursuit of settlement certification while discovery disputes remained unresolved. (See Exhs. 10; 13)
- Defendants refused to cure deficiencies despite notice and opportunity to do so.
- The certification is inconsistent with the record and reflects a lack of reasonable inquiry into the accuracy of the statements made.

Violation:

- Rule 16(i), Ariz. R. Civ. P. (improper certification of readiness)
- Administrative Order 2023-009 (false certification that discovery is complete and no disputes exist)
- Rule 26(g), Ariz. R. Civ. P. (lack of reasonable inquiry and improper certification)
- Noncompliance with the Court's February 3, 2026 Scheduling Order.

XIII. GLOBAL DEFICIENCY: FAILURE TO PRODUCE EVIDENCE

(A) Request:

Plaintiff requested production of documents and evidence supporting Defendants' claims, defenses, and positions.

(B) Response:

Defendants repeatedly assert that no responsive documents exist and refuse production, including:

> *"Defendants are not aware of any non-privileged documents..."* (Exh. 16)
>
> *"No additional documents are produced in response to this Request."* (Exh. 16)
>
> **Responsive materials** *"will not be reproduced, and are rather incorporated herein by reference."* (Exh. 16)
>
> Defendants *"will not respond... absent agreement of the parties or order of the Court."* (Exh. 16)

Defendants further rely on generalized disclosure language while admitting:

> *"This Disclosure Statement... represents the product of investigation to date. Further investigation... may bring to light additional information..."* (Exh. 15)
>
> Defendants *"will not respond... absent agreement of the parties or order of the Court."* (Exh 16)

Defendants further rely on generalized disclosure statements while admitting:

> *"This Disclosure Statement... represents the product of investigation to date. Further investigation... may bring to light additional information..."*

As demonstrated in Table I, Defendants refused to respond to the majority of Requests for Production and failed to identify any documents supporting their defenses. As demonstrated in Table II, Defendants failed to provide factual bases in interrogatory responses. As demonstrated in Table III, Defendants issued unsupported denials without evidentiary support.

(C) Deficiency:

- **No documents produced supporting Defendants' defenses or denials** (Exh. 16)
- **No evidence identified to substantiate factual assertions in responses or disclosures** (Exh. 15-16)
- **No Bates-stamped production or identifiable document references** (Exh. 16 at 3–4, 8–13)
- **Reliance on statements that documents *"will not be reproduced"* without identifying where such documents exist** (Exh. 16)
- **Repeated assertion that no *"non-privileged documents"* exist without describing search efforts, custodians, or scope** (Exh. 16)
- **Conditional refusal to respond absent agreement or court order—contrary to discovery obligations** (Exh. 16)
- **Use of generalized disclosure statements while admitting investigation is ongoing and incomplete** (Exh. 15)
- **Failure to produce any evidence supporting affirmative defenses despite asserting them** (Exh. 15-16)

- **Failure to timely disclose evidence while continuing to rely on undisclosed materials** (Exh. 15-16)
- **Risk of late or selective disclosure of evidence after deadlines, preventing Plaintiff from conducting discovery or preparing a response**

Defendants simultaneously claim (1) no non-privileged documents exist, (2) documents were previously produced but will not be reproduced, and (3) further investigation is ongoing—creating internal inconsistency and preventing verification *(Exh. 15 at 1–2; Exh. 16 at 3–4, 8–13)* The combined deficiencies reflected in Tables I–III establish a complete failure to disclose, identify, or produce evidence supporting Defendants' claims or defenses.

The record reflects a complete failure to produce evidence supporting Defendants' claims and defenses *(Exh. 15; Exh. 16)*

Defendants rely on unsupported assertions rather than producing evidence required under Rule 26.1 *(Exh. 15-16)* Defendants' responses demonstrate a lack of reasonable inquiry and improper certification of discovery compliance *(Exh. 16)*

Assertions regarding non-receipt and refusal to produce do not excuse compliance and further reflect discovery obstruction *(Exh. 10, 16)* Failure to timely disclose evidence, coupled with continued reliance on undisclosed materials, creates a risk of *"trial by ambush,"* which Arizona discovery rules are designed to prevent and which impairs Plaintiff's ability to meaningfully prepare and be heard

Violations:

- Rule 26.1, Ariz. R. Civ. P. (failure to disclose facts and evidence supporting claims/defenses)
- Rule 26(g), Ariz. R. Civ. P. (lack of reasonable inquiry; improper certification)
- Rule 37(c)(1), Ariz. R. Civ. P. (preclusion of untimely disclosed evidence)
- Rule 37, Ariz. R. Civ. P. (failure to comply after notice; sanctions warranted)
- Due Process (U.S. Const. amend. XIV; Ariz. Const. art. 2, § 4) — to the extent nondisclosure and late disclosure impair Plaintiff's meaningful opportunity to prepare, present evidence, and be heard.

Plaintiff requests that the Court preclude Defendants from using any documents, testimony, or other evidence not timely disclosed in compliance with Rule 26.1, pursuant to Rule 37(c)(1), Ariz. R. Civ. P. Alternatively, Plaintiff requests that any such late-disclosed evidence be excluded absent a showing of substantial justification or harmlessness, and that Plaintiff be granted appropriate relief, including additional time for discovery.

XV. PREJUDICE

Defendants' failure to comply prevents Plaintiff from preparing depositions, evaluating defenses, and meaningfully litigating the case, resulting in ongoing prejudice.

XVI. CONCLUSION

Defendants' responses are incomplete, evasive, and unsupported, and fail to comply with Rules 26.1, 33, 34, and 36. The record demonstrates a pattern of noncompliance, including failure to produce documents, failure to provide complete responses, and shifting positions regarding discovery obligations. These failures constitute a failure to respond under Rule 37 and warrant an order compelling full compliance and appropriate sanctions. As detailed in Tables I–III, Defendants' deficiencies are systemic across all discovery categories and demonstrate a pattern of noncompliance warranting relief under Rule 37.

Respectfully submitted this 28th day of April 2026.



Sandra Rodriguez

I. TABLE OF REQUEST FOR PRODUCTION OF RECORDS

Date: April 28, 2026

I. TABLE OF REQUESTS

FOR PRODUCTION (RULE 34)

(First and Second Set Production of Records Requested)

A. BOARD, CONTROL, AND CONFLICTS OF INTEREST

Denied without explanation or reasonable inquiry (Rule 36(a)(4)).

RFP	(A) Request (Specific)	(B) Response	(C) Deficiency	(D) Relief	(E) Relevance to Amended Complaint
1	Identify all GGCA Board Members (2019–present), roles, tenure, and departures	Partial; names/roles provided; objected to additional information; not produced	Partial response; failed to produce full requested information (background, departures, resumes)	Compel	**Establishes control, agency, and decision-makers (Counts I, III, V; agency liability allegations)**
2	Documents showing relationships between Board, Focus HOA, vendors, moderators	Objected (overbroad/irrelevant); states none exist after inquiry; not produced	No relationship disclosures	Compel	**Supports civil conspiracy, coordinated retaliation, and conflicts (Intentional Torts, Conspiracy)**
3	Conflict-of-interest disclosures (A.R.S. § 10-3830)	Objected (overbroad/irrelevant); states none exist after inquiry; not produced	No disclosures or policies	Compel	**Proves fiduciary breach and misuse of authority (Breach of Duty / Governance violations)**
4	Documents showing Board/vendor/management financial interests	Objected (overbroad/irrelevant); states	No financial ties disclosed	Compel	**Shows financial motive and selective enforcement**

RFP	(A) Request (Specific)	(B) Response	(C) Deficiency	(D) Relief	(E) Relevance to Amended Complaint
		none exist after inquiry; not produced			**(Retaliation / Abuse of Process)**

B. VENDOR CONTRACTS, PAYMENTS, AND FINANCIAL CONTROL

Denied without explanation or reasonable inquiry (Rule 36(a)(4)).

RFP	Request	Response	Deficiency	Relief	Relevance
5	All vendor contracts, bids, invoices (2019–present)	Partial / none	No contracts produced	Compel	**Goes to mismanagement + failure to maintain community (Negligence / CC&R breach)**
6	Communications with vendors (Board, Focus, counsel)	Not produced	No emails/texts produced	Compel	**Shows knowledge of hazards + deliberate inaction (Gross Negligence)**
7	Vendor payment records (checks, ACH, ledgers)	Not produced	No accounting	Compel + Sanctions	**Supports misuse of HOA funds + attorney fee targeting**
8	HOA bank statements (all accounts)	Not produced	Complete withholding	Compel + sanctions	**Directly tied to financial coercion, fines, and retaliation**
9	General ledger with descriptions	Not produced	No ledger	Compel	**Tracks where HOA funds were directed (including legal targeting)**
10	Accounting records (AP/AR, audits, journals)	Not produced	No accounting disclosures	Compel	**Supports fraud, misrepresentation, and damages**
11	Reimbursements to Board/management	Not produced	No reimbursements disclosed	Compel	**Shows self-dealing and improper benefit**

C. COMMUNICATIONS, TARGETING, AND RETALIATION

Denied without explanation or reasonable inquiry (Rule 36(a)(4)).

RFP	Request	Response	Deficiency	Relief	Relevance
12	Internal communications re vendor selection and favoritism	Not produced	Objected and failed to identify or produce communications; no privilege log provided	Compel	**Shows preferential treatment + corruption indicators**
13	Board communications re Plaintiff, control, elections, suppression	Not produced	Objected and failed to identify or produce communications; no privilege log provided	Compel	**Direct evidence of retaliation and targeting**
Comm-1	All communications referencing Plaintiff	None	Total failure	Compel + sanctions	**Core to ALL CLAIMS (retaliation, discrimination, torts)**
Comm-2	Communications with law enforcement or agencies re Plaintiff	Not produced	No reports/logs	Compel	**Supports false reporting + intentional torts**
Comm-3	Documents supporting allegations against Plaintiff	Not produced	No evidence exists or withheld	Deem adverse inference	**Shows fabrication / abuse of process**
Comm-4	HOA enforcement records (violations, photos, notes)	Not produced	No enforcement file	Compel	**Key to selective enforcement claim**
Comm-5	Maintenance, mold, sanitation complaints	Not produced	No remediation records	Compel	**Core to negligence / gross negligence**

D. SOCIAL MEDIA, SURVEILLANCE, AND HARASSMENT

Denied without explanation or reasonable inquiry (Rule 36(a)(4)).

RFP	Request	Response	Deficiency	Relief	Relevance
17	Facebook admin logs, deleted posts, bans, moderation	Not produced	No logs	Compel	**Shows suppression of speech and retaliation**
18	Communications re monitoring Plaintiff / "watching"	Not produced	None produced	Compel	**Supports harassment and intimidation allegations**
Surveillance	Logs of visits to Plaintiff's home (who, why, reports)	Not produced	No logs or reports	Compel	**Direct evidence of intentional surveillance + tortious conduct**

E. GOVERNANCE, RECORDS, AND ACCESS RESTRICTIONS

Denied without facts, inquiry, or basis; violates Rule 36(a)(4).

RFP	Request	Response	Deficiency	Relief	Relevance
Elections	Ballots, quorum, vote counts, logs	Not produced	No election records	Compel	**Supports election interference claim**
Governance	Board minutes, policies, resolutions	Partial / delayed	Incomplete + post-litigation production	Compel	**Shows records obstruction and governance violations**
Portal	Access logs, restrictions, metadata	Not produced	No logs	Compel	**Supports denial of records access and retaliation**
Mail Restriction	Policy drafts, approvals, reasoning	Not produced	No policy documentation	Compel	**Shows targeted restriction unique to Plaintiff**

F. FINANCIAL TARGETING, LIENS, AND ENFORCEMENT AGAINST HOMEOWNERS

RFP	Request	Response	Deficiency	Relief	Relevance
Financial-7	HOA budgets (2023–present)	Not produced	No budgets	Compel	**Shows allocation of funds and enforcement patterns**
Financial-8	HOA income (assessments, fines, legal fees)	Not produced	No accounting	Compel	**Shows financial pressure tactics**
Financial-9	Homeowner ledgers	Not produced	No ledgers	Compel	**Enables comparison (selective enforcement)**
Financial-10	Demand letters	Not produced	None produced	Compel	**Shows pattern of coercion**
Financial-14	Liens + foreclosure documents	Not produced	No lien records	Compel	**Supports abuse of enforcement authority**

G. ARCHITECTURAL REQUESTS / MOLD / HABITABILITY (CORE LIABILITY)

RFP	Request	Response	Deficiency	Relief	Relevance
ARC-1	Plaintiff's ARC submissions (all versions + timestamps)	Not produced	No file	Compel	**Central to denial of remediation (mold claim)**
ARC-2	Internal communications re Plaintiff's requests	Not produced	No internal discussion	Compel	**Shows intentional delay/denial**

RFP	Request	Response	Deficiency	Relief	Relevance
ARC-3	Other homeowners' ARC submissions	Not produced	No comparator data	Compel	**Proves selective enforcement**
ARC-8	Plaintiff's full architectural file (unredacted)	Not produced	Withheld	Compel	**Critical to causation of damages (loss of grant)**
ARC-9	Documents re loss of remediation funding	Not produced	No records	Compel	**Directly tied to damages and causation**

H. FRAUD, MISREPRESENTATION, FINANCIAL MISUSE

RFP	Request	Response	Deficiency	Relief	Relevance
Fraud-1	Bank records, payments, vendor invoices	Not produced	Total withholding	Compel + sanctions	**Supports fraud / misrepresentation claims**
Fraud-10	Conflict disclosures	Not produced	None	Compel	**Shows concealed conflicts**
Fraud-11	Payments to individuals/affiliates	Not produced	None	Compel	**Establishes personal benefit / motive**
Fraud-12	Internal financial investigations	Not produced	None	Compel	**Shows knowledge of wrongdoing**

I. GLOBAL DEFICIENCIES AND RESPONSE POSITION

Defendants provided only limited responses to the first ten Requests for Production, asserting objections and, in several instances, claiming no responsive documents exist without identifying custodians, search methods, or scope of inquiry. As to all remaining requests, Defendants refused to respond based on purported Tier limits and did not seek a protective order. They also rely on generalized references to prior disclosures without identifying specific responsive documents. Accordingly, where not otherwise specified, Defendants' responses consist of objections, unsupported "no documents" assertions, or complete refusal to respond.

II. TABLE OF REQUEST FOR UNIFORM AND NON UNIFORM INTERROGATORIES

Date: April 28, 2026

II. TABLE OF REQUESTS

FOR UNIFORM AND NON-UNIFORM INTERROGATORIES (RULE 34)

A. UNIFORM INTERROGATORIES (ALL DEFENDANTS)

(GGCA Board Members (current and former), Anna Schultz, Harmin Cadis, Brooke Sortor)

No.	(A) Interrogatory (Specific Question)	(B) Response	(C) Deficiency	(D) Relief	(E) Relevance to Amended Complaint
Int. 1	Identify all persons with knowledge of facts and state what each person knows	Incomplete	Fails to identify Board members, management, vendors, or witnesses with knowledge	Compel verified answer	**Establishes who knew of hazards, retaliation, and governance actions (negligence, conspiracy)**
Int. 2	Identify all trial witnesses and subject matter of testimony	Incomplete	No subject matter disclosed	Compel	**Defines scope of defense + concealment of key actors**
Int. 3	State all damages claimed and basis	None / vague	No computation or categories	Compel	**Tied to financial claims, enforcement costs, and HOA conduct**
Int. 4	Identify all documents/evidence supporting claims/defenses	Boilerplate	No documents identified	Compel	**Links directly to withheld records (Rule 26.1 violation)**
Int. 5	Identify all insurance policies covering claims	Partial	Policies not fully identified or produced	Compel production	**Relevant to liability coverage and indemnity for tort claims**

No.	(A) Interrogatory (Specific Question)	(B) Response	(C) Deficiency	(D) Relief	(E) Relevance to Amended Complaint
Int. 6	For each denied RFA, state all supporting facts, documents, witnesses	None	Violates Rule 33.1(f)	Compel	**Forces factual basis for denials (or exposes lack thereof)**
Int. 7	Identify all persons who prepared responses (attorneys, Board, employees)	Not identified	No verification of authorship	Compel	**Shows who is controlling litigation + potential misconduct**
Int. 8	Identify all expert witnesses and opinions	Not disclosed	No expert disclosures	Compel/preclude	**Impacts causation defenses (mold, damages, governance)**
Int. 9	State factual basis for all defenses asserted	Boilerplate	No facts provided	Compel	**Required under Arizona law to avoid ambush defenses**
Int. 10	Identify all communications supporting defenses	None	No communications identified	Compel	**Directly tied to internal intent and coordination**

B. NON-UNIFORM INTERROGATORIES

(Directed to GGCA Board Members, Anna Schultz, Harmin Cadis, Brooke Sortor)

1. CONTROL, AUTHORITY, AND DECISION-MAKING

No.	(A) Interrogatory (Specific Question)	(C) Deficiency	(D) Relief	(E) Relevance
11	Identify your role, authority, and decision-making power within GGCA or Focus HOA	No clear authority identified	Compel	**Establishes agency and personal liability (all counts)**
12	Identify all decisions you made regarding Plaintiff	Not answered	Compel	**Shows direct participation in wrongful conduct**

No.	(A) Interrogatory (Specific Question)	(C) Deficiency	(D) Relief	(E) Relevance
13	Identify all persons involved in decisions affecting Plaintiff	Incomplete	Compel	**Supports civil conspiracy and coordination**

2. COMMUNICATIONS AND TARGETING OF PLAINTIFF

No.	Question	Deficiency	Relief	Relevance
14	Identify all communications about Plaintiff (internal/external)	None identified	Compel	**Core evidence of retaliation and intent**
15	Identify all statements made about Plaintiff to third parties	Not answered	Compel	**Supports defamation / false reporting allegations**
16	Identify all communications with counsel regarding Plaintiff	Withheld	Compel + privilege log	**Shows litigation strategy and coordinated conduct**

3. RECORDS ACCESS AND RESTRICTIONS

No.	Question	Deficiency	Relief	Relevance
17	Explain handling of Plaintiff's records requests	No explanation	Compel	**Central to A.R.S. § 33-1805 violations**
18	Explain decision to impose "mail-only" restriction	Not answered	Compel	**Shows targeted restriction / retaliation**
19	Identify all policies governing records access	Not produced	Compel	**Establishes noncompliance with statutory duties**

4. ARCHITECTURAL REQUESTS / MOLD / SAFETY ISSUES

No.	Question	Deficiency	Relief	Relevance
20	Describe handling of Plaintiff's architectural requests	No timeline or actions identified	Compel	**Core to negligence and causation (mold exposure)**
21	Identify all persons involved in denying or delaying requests	Not identified	Compel	**Shows intentional delay and responsibility**
22	State reasons for denial/delay of Plaintiff's requests	Evasive	Compel	**Supports gross negligence and intentional conduct**

5. ENFORCEMENT AND SELECTIVE TREATMENT

No.	Question	Deficiency	Relief	Relevance
23	Identify all enforcement actions against Plaintiff	Incomplete	Compel	**Shows pattern of targeting**
24	Identify similarly situated homeowners and enforcement actions	Not provided	Compel	**Required for discrimination / selective enforcement**
25	Explain basis for enforcement decisions	No factual basis	Compel	**Shows pretext vs legitimate enforcement**

6. SANITATION, HAZARDS, AND MAINTENANCE FAILURES

No.	Question	Deficiency	Relief	Relevance
26	Identify all complaints regarding sanitation, mold, safety	Not identified	Compel	**Proves notice (negligence element)**
27	Identify actions taken to remediate hazards	None identified	Compel	**Shows failure to act**
28	Identify reasons no action was taken	Not answered	Compel	**Establishes reckless disregard (gross negligence)**

7. ELECTIONS AND GOVERNANCE INTERFERENCE

No.	Question	Deficiency	Relief	Relevance
29	Describe election procedures and handling of Plaintiff's ballot	Not answered	Compel	**Supports election interference claim**
30	Identify all communications about Plaintiff's candidacy	Not identified	Compel	**Shows intentional exclusion**
31	Identify persons involved in election decisions	Incomplete	Compel	**Shows coordinated conduct**

8. DISCRIMINATION AND RETALIATION

No.	Question	Deficiency	Relief	Relevance
32	Identify all actions taken after Plaintiff engaged in protected activity	Not answered	Compel	**Establishes retaliation timeline**
33	Identify reasons for restricting Plaintiff's participation	Evasive	Compel	**Shows pretext vs discriminatory motive**
34	Identify all complaints or discussions referencing Plaintiff's status	Not identified	Compel	**Relevant to Fair Housing Act claims**

9. ATTORNEY INVOLVEMENT AND LITIGATION CONDUCT

No.	Question	Deficiency	Relief	Relevance
35	Identify all communications with attorney Shaw regarding Plaintiff	Withheld	Compel + privilege log	**Shows abuse of process / coordination**
36	Identify all actions taken at direction of counsel	Not answered	Compel	**Establishes agency and intent**
37	Identify all reports made to law enforcement or agencies	Not disclosed	Compel	**Supports false reporting / intentional torts**

10. FINANCIAL BENEFITS AND CONFLICTS

No.	Question	Deficiency	Relief	Relevance
38	Identify all attorney fees paid related to Plaintiff	Not disclosed	Compel	**Shows financial targeting / coercion**
39	Identify all financial benefits received by Board or management	Not disclosed	Compel	**Supports conflict of interest claims**
40	Identify all relationships with vendors or affiliates	Not disclosed	Compel	**Shows self-dealing / bias**

11. MEETINGS, GOVERNANCE, AND ACCESS

No.	Question	Deficiency	Relief	Relevance
41	Identify all Board meetings where Plaintiff was discussed	Not identified	Compel	**Shows targeting and coordination**
42	Identify all decisions made in executive session regarding Plaintiff	Not disclosed	Compel	**Supports due process violations**
43	Identify all restrictions placed on Plaintiff's participation	Not identified	Compel	**Shows systematic exclusion**

III. TABLE OF REQUEST FOR ADMISSIONS

III. TABLE REQUESTS FOR ADMISSIONS (RULE 34)

A. COMMUNICATIONS, FALSE ALLEGATIONS, AND RETALIATION

Denied without explanation; fails to state facts, identify evidence, or describe any reasonable inquiry as required by Rule 36(a)(4), Ariz. R. Civ. P.

No.	(A) REQUEST FOR ADMISSION	(B) RESPONSE	(C) DEFICIENCY	(D) RELIEF	(E) RELEVANCE TO AMENDED CIVIL COMPLAINT
RFA 1	Admit you made allegations of fraud, misconduct, or wrongdoing about Plaintiff	Denied	No facts or documents identified	Deem admitted	**Shows false accusations forming basis of retaliation and tort claims**
RFA 2	Admit you communicated such allegations to third parties	Denied	No recipients identified	Deem admitted	**Supports publication element (defamation / harassment)**
RFA 3	Admit no investigation was conducted before making allegations	Denied	No investigation identified	Deem admitted	**Shows reckless disregard (gross negligence / intentional tort)**
RFA 4	Admit no documentation supports allegations	Denied	No documents produced	Deem admitted	**Demonstrates fabrication / lack of factual basis**
RFA 5	Admit at least one statement was false or unsupported	Denied	No contrary evidence	Deem admitted	**Supports intentional misrepresentation claims**
RFA 6	Admit allegations were used to justify enforcement/monitoring	Denied	No linkage explained	Deem admitted	**Shows pretext for enforcement actions**
RFA 7	Admit communications were shared with non-HOA third parties	Denied	No recipients disclosed	Deem admitted	**Shows unlawful dissemination / harassment**

B. REPORTS TO GOVERNMENT & LAW ENFORCEMENT

Denied without identifying whether responsive reports exist, the basis for denial, or any reasonable inquiry conducted; response is evasive and non-compliant with Rule 36(a)(4)

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 8	Admit a report about Plaintiff was made to a government agency	Denied	No reports identified	Deem admitted	**Supports false reporting / abuse of process**
RFA 9	Admit reports included allegations of misconduct or safety issues	Denied	No details provided	Deem admitted	**Shows content of false reports**
RFA 10	Admit no documentation supported at least one report	Denied	No supporting evidence	Deem admitted	**Shows reckless or intentional false reporting**
RFA 11	Admit Plaintiff was not notified of such reports	Denied	No notice records	Deem admitted	**Supports due process violations**
RFA 12	Admit reports were made after Plaintiff asserted rights	Denied	Timing not disputed with evidence	Deem admitted	**Establishes retaliation causal link**
RFA 13	Admit reports were initiated or encouraged by counsel	Denied	No privilege log or denial basis	Deem admitted	**Shows attorney-directed conduct / conspiracy**

C. VISITS, MONITORING, AND SURVEILLANCE

Denied without stating whether any visits occurred, identifying supporting facts, or describing any reasonable inquiry; constitutes an evasive denial under Rule 36(a)(4)

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 14	Admit Defendants or agents visited Plaintiff's property	Denied	No logs or records produced	Deem admitted	**Establishes entry/surveillance conduct**
RFA 15	Admit at least one visit occurred without consent	Denied	No consent evidence	Deem admitted	**Supports trespass / harassment claims**

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 16	Admit did not provide Plaintiff prior written notice prior to at least one visit	Denied	No notice records	Deem admitted	**Shows improper enforcement practices**
RFA 17	Admit visits were enforcement or complaint-triggered	Denied	No basis provided	Deem admitted	**Links visits to retaliation**
RFA 18	Admit no documentation justifies at least one visit	Denied	No documentation produced	Deem admitted	**Shows lack of legitimate purpose**
RFA 19	Admit at least one visit occurred followed discussions with counsel	Denied	No explanation	Deem admitted	**Shows coordinated conduct**

D. ONLINE HARASSMENT AND RETALIATION

Denied without addressing identified individuals, communications, or inquiry performed; fails to provide a good-faith, specific denial as required by Rule 36(a)(4).

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 20	Admit discussions about Plaintiff occurred on social media or online platforms	Denied	No logs produced	Deem admitted	**Supports harassment / speech suppression**
RFA 21	Admit individuals posted about Plaintiff after contact with Defendants	Denied	No investigation disclosed	Deem admitted	**Shows third-party coordination**
RFA 22	Admit posts were negative or retaliatory or intended to discredit Rodriguez	Denied	No contrary evidence	Deem admitted	**Supports intent element**
RFA 23	Admit no corrective action was taken to correct, retract, or mitigate online statements.	Denied	No mitigation evidence	Deem admitted	**Shows ratification of harassment**

V. MISUSE OF HOA FUNDS (ATTORNEY FEES / TARGETING)

Denied without identifying accounting records, approvals, or any factual basis; fails to state whether information is unavailable after reasonable inquiry, in violation of Rule 36(a)(4)

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 24	Admit HOA funds were used to pay attorney fees related to Plaintiff	Denied	No accounting produced	Deem admitted	**Shows financial targeting / coercion**
RFA 25	Admit HOA funds were used to investigate, monitor or response to Plaintiff's complaints.	Denied	No records produced	Deem admitted	**Supports retaliation conduct**
RFA 26	Admit no membership vote approved HOA funds for legal action against Plaintiff.	Denied	No vote records	Deem admitted	**Shows governance violations**
RFA 27	Admit at least some attorney fees were unrelated to CC&R enforcement and instead related to retaliation, litigation strategy, and communications about Plaintiff.	Denied	No billing records produced	Deem admitted	**Supports misuse of funds for improper purposes (i.e.; abuse of process and shifting personal liability.**
RFA 28	Admit no written Board approval exists for all attorney fees	Denied	No approvals produced	Deem admitted	**Shows unauthorized conduct**
RFA 29	Admit homeowners were not notified of attorney fees use charged to the Association with regards to legal fees.	Denied	No notice records	Deem admitted	**Supports lack of transparency**
RFA 30	Admit funds benefited individuals rather than HOA	Denied	No financial disclosures	Deem admitted	**Shows self-dealing / fiduciary breach**

VI. FAILURE TO FOLLOW CC&Rs AND STATUTORY DUTIES

Denied without addressing timelines, records, or factual basis; response is conclusory and fails to comply with Rule 36(a)(4).

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 31	Admit failure to timely respond to Plaintiff's ARC/ACC requests	Denied	No timelines produced	Deem admitted	**Central to mold / remediation delay**
RFA 32	Admit other homeowners received faster approvals than Plaintiff.	Denied	No comparator data	Deem admitted	**Supports discrimination / selective enforcement**
RFA 33	Admit Plaintiff was treated differently than other similarly situated homeowners.	Denied	No comparative evidence	Deem admitted	**Core to FHA claims**
RFA 34	Admit failure to maintain required records	Denied	Records missing or delayed	Deem admitted	**Supports A.R.S. § 33-1805 violations**
RFA 35	Admit records were withheld from Plaintiff	Denied	No production logs	Deem admitted	**Shows records obstruction**

VII. SELECTIVE ENFORCEMENT & DISCRIMINATION

Denied without identifying comparator conduct, enforcement records, or basis for denial; fails to provide a specific, good-faith response under Rule 36(a)(4).

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 36	Admit enforcement against Plaintiff was stricter	Denied	No comparator evidence	Deem admitted	**Shows disparate treatment**
RFA 37	Admit Plaintiff was cited for conduct others engaged in	Denied	No enforcement records	Deem admitted	**Key selective enforcement evidence**
RFA 38	Admit retaliation followed Plaintiff's complaints	Denied	No timing explanation	Deem admitted	**Establishes causal link**

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 39	Admit at least one enforcement action lacked factual basis	Denied	No evidence produced	Deem admitted	**Shows pretextual enforcement**
RFA 40	Admit Plaintiff was not treated equally	Denied	No comparative analysis	Deem admitted	**Core discrimination element**

VIII. ATTORNEY INVOLVEMENT & ABUSE OF PROCESS

Denied without identifying supporting facts or asserting privilege with specificity; failure to assert privilege or explain inability to admit/deny renders response improper under Rule 36(a)(4).

No.	REQUEST	RESPONSE	DEFICIENCY	RELIEF	RELEVANCE
RFA 41	Admit HOA was not maintained to required CC&R standards	Denied	No maintenance records	Deem admitted	**Supports negligence claims**
RFA 42	Admit conduct did not meet fairness and non-discrimination standards	Denied	No compliance evidence	Deem admitted	**Supports discrimination + fiduciary breach**
RFA 43	Admit counsel directed at least one action against Plaintiff	Denied	No privilege log	Deem admitted	**Shows attorney-driven conduct**
RFA 44	Admit counsel's direction resulted in harm or retaliation	Denied	No explanation	Deem admitted	**Supports intentional tort claims**
RFA 45	Admit at least one action was not required by CC&Rs or law	Denied	No legal basis identified	Deem admitted	**Shows improper enforcement**
RFA 46	Admit attorney involvement was used to intimidate Plaintiff	Denied	No contrary evidence	Deem admitted	**Supports coercion / abuse of process**
RFA 47	Admit attorney involvement escalated dispute	Denied	No mitigation evidence	Deem admitted	**Shows intentional escalation**
RFA 48	Admit at least one action constitutes abuse of process	Denied	No factual rebuttal	Deem admitted	**Directly supports tort claim**

EXHIBIT 2

Good Faith Consultation Certificate post Meet and Confer dated March 25, 2026

COPY

APR 15 2026

CLERK OF THE SUPERIOR COURT
R. STERGULZ
DEPUTY CLERK

Sandra Rodriguez
4375 E. Betsy Lane
Gilbert, Arizona 85296
Phone Number: 602-688-9720
Email Address: sandra.rodriguez0339@gmail.com
Representing: ☑ Self Represented, without a Lawyer

IN THE SUPERIOR COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

SANDRA RODRIGUEZ,

Plaintiff,

vs.

GARDENS GILBERT COMMUNITY ASSOCIATION *an Arizona non profit* corporation; FOCUS HOA MANAGEMENT, LLC, and Arizona limited liability company; HARMIN CADIS, BROOKE SORTOR, ANNA SCHULTZ

Defendants,

MARICOPA COUNTY
SUPERIOR COURT
Case No.: CV2024-005940
Judge David McDowell,

CERTIFICATE OF GOOD FAITH CONSULTATION

(Ariz. R. Civ. P. 26(d))

Dear Honorable Judge McDowell;

Rodriguez *("Plaintiff")*, appearing pro se, certifies pursuant to Rule 26(d), Ariz. R. Civ. P., that she made multiple good-faith efforts to resolve this discovery dispute without court intervention and has satisfied all meet-and-confer requirements.

Plaintiff served discovery on December 1, 2025, supplemented on December 22, 2025, and re-served on March 1, 2026 after Defendants failed to respond. Plaintiff also provided written notice of deficiencies and requested compliance, including a production date, prior to seeking Court relief.

On March 25, 2026, Plaintiff participated in a telephonic meet-and-confer with Defendants' counsel, Augustus H. Shaw IV, specifically addressing Defendants' failure to provide responses to Requests for Production, Interrogatories, Requests for Admission, and Rule 26.1 disclosures. Plaintiff clearly identified the outstanding discovery, the applicable deadlines under Rules 33, 34, and 36, and the continuing obligation to disclose under Rule 26.1.

Defendants' counsel refused to provide substantive responses or a production timeline, asserted that discovery was "not due," claimed deadlines were "reset" by the Amended Complaint, and repeatedly stated he did not understand the requests despite Plaintiff's clear explanations. Counsel did not propose any compromise, seek clarification in good faith, or agree to cure deficiencies.

The conference concluded without resolution, and Defendants continue to withhold responsive discovery despite notice and opportunity to comply. Their refusal to engage meaningfully constitutes obstructionist conduct under Rule 26(h) and failure to comply with disclosure and discovery obligations under Rules 26.1, 33, 34, and 36.

Accordingly, Plaintiff has satisfied Rule 26(d), and further meet-and-confer efforts would be futile.

Respectfully submitted this 15th day of April 2026.



Sandra Rodriguez

VI. CERTIFICATE OF SERVICE

I served copies of this ***CERTIFICATE OF GOOD FAITH CONSULTATION for*** on all parties of record via U.S. Mail.

OPPOSING PARTY INFORMATION

DEFENDANTS:

- Gardens Gilbert Community Association
- Focus HOA Management, LLC
- Harmin Cadis
- Brooke Sortor
- Anna Schultz

- **Address**: 4135 E. Power Road, Suite 133, Mesa, Arizona 85212

DEFENDANT'S LEGAL COUNSEL:

- **Name**: Augustus H. Shaw IV
- **Firm**: Shaw & Lines, LLC
- **Address**: 1490 S. Price Road, Suite 318 Chandler, Arizona 85286

Respectfully submitted this 15th day of April 2026.

Sandra Rodriguez

EXHIBIT 3

Sandra Rodriguez
4375 E. Betsy Lane
Gilbert, Arizona 85296
Phone Number: 602-688-9720
Email Address: sandra.rodriguez0339@gmail.com
Representing: ☑ Self Represented, without a Lawyer

IN THE SUPERIOR COURT IN THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

SANDRA RODRIGUEZ,

Plaintiff,

vs.

GARDENS GILBERT COMMUNITY ASSOCIATION an Arizona non profit corporation; FOCUS HOA MANAGEMENT, LLC, and Arizona limited liability company; HARMIN CADIS, BROOKE SORTOR, ANNA SCHULTZ

Defendants,

MARICOPA COUNTY SUPERIOR COURT
Case No.: CV2024-005940
Judge David McDowell,

ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL AND REQUESTS FOR SANCTIONS
(Amended, Third Attempt)

(Pursuant to Ariz. R. Civ. P. 37(a))

The Court, having considered Plaintiff's Motion, the record, and being fully advised,

IT IS ORDERED:

1. MOTION TO COMPEL GRANTED

Plaintiff's Motion to Compel is GRANTED.

2. DISCOVERY COMPLIANCE REQUIRED

Defendants shall provide full, complete, and non-evasive responses to all outstanding discovery requests, including Requests for Production, Requests for Admission, and Interrogatories, in compliance with Rules 26.1, 33, 34, and 36.

DEADLINE

Defendants shall fully comply within ___ days of this Order.

3. VERIFIED UNIFORM AND NON UNIFROM INTERROGATORIES

All interrogatory responses shall be answered by each defendant including current and prior Gardens Gilbert Community Association Board Member between 2021-2026, Focus HOA Management, LLC, Anna Schultz (individually), Harman Cadis (individually), and Brooke Sortor (individually) under oath as required by Rule 33.

4. REQUESTS FOR ADMISSION & MANDATORY PRODUCTION

Any Requests for Admission not properly answered are deemed admitted pursuant to Rule 36(a)(3). Defendants shall produce all responsive documents, communications, and records requested by Plaintiff, including those supporting or contradicting the Requests for Admission. Failure to do so will result in preclusion of such evidence under Rule 37(c)(1).

5. PRECLUSION

Defendants are precluded from using any undisclosed evidence pursuant to Rule 37(c)(1).

6. VIOLATION OF COURT ORDERS

The Court finds Defendants have failed to comply with prior Court orders, including:

1. The February 2, 2026 Scheduling Order, which required timely Rule 26.1 disclosures and completion of discovery within set deadlines
2. The April 16, 2026 Order, requiring the parties to properly meet and confer under Rule 26(d) before presenting discovery disputes

Defendants' continued failure to provide discovery and comply with these obligations constitutes noncompliance with the Court's directives.

7. SETTLEMENT CONFERENCE NOT APPROPRIATE

The Court finds that Plaintiff cannot meaningfully participate in a settlement conference as required under Rule 16 due to Defendants' failure to provide discovery. The Scheduling Order requires the parties to certify readiness for settlement and complete disclosure obligations prior to proceeding.

Defendants' noncompliance prevents:

1. Evaluation of claims and defenses
2. Assessment of damages
3. Good faith settlement participation
4. Settlement Conference Stayed
5. Any settlement conference is stayed or continued until Defendants fully comply with discovery obligations.

8. GOOD FAITH FINDING

The Court finds Plaintiff satisfied Rule 26(d) requirements. Defendants failed to participate in discovery in good faith and made representations inconsistent with the record regarding the March 25, 2026 meet-and-confer.

9. STRIKING OF AFFIRMATIVE DEFENSES

Pursuant to Rule 37(b)(2) and (c)(1), Ariz. R. Civ. P., and based on Defendants' failure to comply with discovery obligations and this Court's Orders, the Court finds lesser sanctions are insufficient.

IT IS ORDERED:

Defendants' affirmative defenses are STRICKEN, in whole or in part, to the extent they:

1. Are unsupported by disclosed facts or evidence as required by Rule 26.1;
2. Rely on documents, communications, or information not produced in discovery;
3. Depend on positions for which Defendants failed to provide complete interrogatory responses, document production, or Rule 36-compliant admissions.

Alternatively, if not fully stricken:

Defendants are precluded from asserting or relying upon any affirmative defense not supported by timely disclosed and produced evidence, and may not introduce any evidence or argument in support of such defenses at deposition, summary judgment, or trial.

10. SANCTIONS

Pursuant to Rule 37, the Court finds Defendants' conduct was not substantially justified.

The Court therefore:

☐ Imposes evidentiary sanctions

☐ Awards costs and expenses to Plaintiff

☐ Imposes additional sanctions as follows: _____

FURTHER RELIEF

The Court retains authority to impose additional sanctions for continued noncompliance.

DATED: _____

_____

The Honorable David McDowell

Maricopa County Superior Court

EXHIBIT 4

Gmail Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Meet and Confer Compliance: Ongoing Discovery Violations (March 25, 2026 Record) CV2024-005940

Sandra Rodriguez <sandra.rodriguez0339@gmail.com> Tue, Apr 14, 2026 at 11:40 AM
To: Augustus Shaw <ashaw@shawlines.com>
Cc: Dominick Détente <Dominick@shawlines.com>
Bcc: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Dear Shaw,

I would like to remind you that a recorded meet-and-confer was conducted on March 25, 2026 regarding the ongoing discovery disputes. I am fully compliant with my obligations, as I have already met and conferred with you on these issues. Despite that conference, you and your co-counsel, Mr. Dente, have refused to cure the identified deficiencies and continue to refuse to comply with the Court's orders that you yourself reference but are not abiding by. I have a recording of this call and will provide it to the Court if necessary.

Sincerely,

Sandra Rodriguez

On Tue, Apr 14, 2026 at 11:16 AM Augustus Shaw <ashaw@shawlines.com> wrote:

> Ms. Rodriguez,
>
> I will remind you of the Court's recent Rulings (attached) where the Court stated "[T]he Court previously indicated the parties must comply with Rule 26(d) related to any discovery disputes."
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> The Court has previously ruled on your "discovery disputes," and issued Orders regarding discovery and disclosure.
>
> If you would like to follow the Orders of the Court and engage in the discovery and disclosure dispute procedures pursuant to Rule 26(d), please feel free to give me a call at the number below.
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> Augustus H. Shaw IV†*
>
> Shaw & Lines, LLC
>
> 1490 S. Price Rd., Suite 318
> Chandler, Arizona 85286
>
> Phone 480-456-1500
>
> e-mail ashaw@shawlines.com

web site www.shawlines.com

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*Faculty Associate Professor - Arizona State University O'Connor College of Law

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Subject: Continued Discovery Abuse and Noncompliance, Due Process Violations – CV2024-005940

Dear Dente,

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Defendants, through counsel including yourself and Mr. Shaw, continue to withhold discovery in direct violation of this Court's February 23, 2026 Order requiring discovery to proceed, as well as their obligations under the Arizona Rules of Civil Procedure. Despite repeated efforts to resolve these deficiencies, Defendants have made little to no good faith effort to cure these violations, resulting in ongoing prejudice and raising serious due process concerns by impairing Plaintiff's ability to prepare and prosecute her claims.

This conduct further implicates counsel's duties under the Arizona Rules of Professional Conduct, including ER 3.4 and ER 8.4(d), and reflects disregard for both procedural rules and fundamental constitutional protections.

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On Mon, Apr 13, 2026, 5:01 PM Dominick Détente <Dominick@shawlines.com> wrote:

> Good afternoon Ms. Rodriguez,
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> Please see the attached Post-Amendment Responses to your Discovery Requests as well as our Second Supplemental Disclosure Statement.
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> Thank you and have a great rest of your day,
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> Dominick Detente, Esq.
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EXHIBIT 5

Gmail

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EXHIBIT 6

Gmail

Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Meet and Confer Compliance: Ongoing Discovery Violations (March 25, 2026 Record) CV2024-005940

1 message

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EXHIBIT 7

Gmail Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Rodriguez v. Gardens Gilbert - CV2024-005940 - Outstanding Discovery and Settlement Conference Scheduling Letters

2 messages

Dominick Détente <Dominick@shawlines.com> Wed, Dec 31, 2025 at 12:53 PM
To: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>
Cc: Augustus Shaw <ashaw@shawlines.com>, Diane Fincher <Diane@shawlines.com>, Elizabeth Mundall <elizabeth@shawlines.com>, Receptionist <receptionist@shawlines.com>

Good afternoon Ms. Rodriguez,

I hope you are having a lovely holiday season and ready for a happy New Years!

Attached please find the following correspondence:

1. Letter regarding outstanding discovery responses past due; and
2. Letter regarding the Court's November 10, 2025 Minute Entry concerning settlement conference scheduling.

Copies of these letters are also being sent to you by U.S. mail today.

Please let us know if you have any questions.

Dominick Detente, Esq.
SHAW & LINES, LLC
We've Moved!
1490 S. Price Rd., Suite 318
Chandler, Arizona 85286
480.456.1500

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2 attachments

Letter to Plaintiff re Outstanding Discovery Responses.pdf
209K

Letter to Plaintiff re Settlement Conference Scheduling.pdf
209K

Sandra Rodriguez <sandra.rodriguez0339@gmail.com> Wed, Dec 31, 2025 at 4:53 PM

Draft To: Augustus Shaw <ashaw@shawlines.com>
Cc: Dominick Détente <dominick@shawlines.com>
Bcc: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Dear Augustus H. Shaw IV,

I am in receipt of your December 31, 2025 email and attached correspondence regarding alleged discovery deficiencies and proposed settlement conference scheduling.

Defendants have not produced the records I requested, despite proper service of discovery and multiple follow-up communications. That issue remains unresolved.

For clarity of the record:

- On December 1, 2025, I served my Initial Rule 26.1 Disclosure, Requests for Admissions, Requests for Production, and Uniform and Non-Uniform Interrogatories.

- On December 22, 2025, I sent a follow-up documenting Defendants' failure to respond and requesting confirmation of production by December 30, 2025.

- On December 22, 2025, I also served a Second Request for Production, expressly noting that no responses had been received to the first set and that the second request was supplemental and non-duplicative.

To date, Defendants have not provided complete discovery responses or document production responsive to my December 1 and December 22, 2025 requests, including documents Defendants now appear to rely upon in asserting that my responses are "past due." I also have not received separate, verified interrogatory responses from each Defendant, including former and current Board members, as required by Rule 33(a) and (b), Arizona Rules of Civil Procedure.

During our telephone conversation on December 22, 2025, you stated that Defendants were providing limited discovery based on the Court's Tier 1 designation. That position is not supported by Arizona law. While Rule 26.2 limits the quantity of discovery in Tier 1 cases, it does not relieve a party of the obligation to provide complete, non-evasive responses to the discovery it elects to answer, to produce responsive documents that exist, or to comply with Rule 26.1 disclosure requirements. Arizona courts have repeatedly held that discovery limits do not excuse incomplete or inadequate responses, nor do they permit a party to withhold required information on relevance grounds without proper support. See *Cornet Stores v. Superior Court,* 108 Ariz. 84, 87 (1972) (discovery may not be used to obstruct access to relevant information); *Wells Fargo Bank v. Allen,* 231 Ariz. 209, 213 ¶14 (App. 2012) (discovery must be tied to claims and defenses and answered in good faith).

Accordingly, any suggestion that discovery deficiencies exist solely on my part is inaccurate and disregards Defendants' ongoing non-compliance with their disclosure and production obligations under

the Arizona Rules of Civil Procedure and Judge McDowell's November 12, 2025 Scheduling Order, which did not authorize incomplete responses or withholding of required information based solely on a Tier 1 designation. With respect to discovery scope, your correspondence suggests my objections are limited to financial information. That is incorrect. As set forth in the operative civil complaint, this action concerns HOA statutory noncompliance and governance misconduct, including obstruction of records access under A.R.S. § 33-1805, retaliatory and selective enforcement, election interference, and related claims for breach of contract and duty, negligence, intentional torts, discrimination, retaliation, and constitutional violations. The case does not place any medical condition, mental health, personal finances, indigency status, private writings, or alleged criminal or licensing conduct at issue.

Defendants' First Set of Discovery Requests is therefore misaligned with the pleadings and seeks broad categories of highly private, privileged, and constitutionally protected materials, including medical and mental-health records, financial and benefit records, private journals and notes, attorney communications and work product, and materials implying criminal or licensing violations, including purported "daycare" allegations. These requests are irrelevant, disproportionate, and not lawful under Arizona law.

On December 22, 2025, at approximately 5:09 p.m., I made a good-faith telephone call to Mr. Shaw seeking clarification regarding the purported daycare allegations and Defendants' repeated focus on my indigent status, neither of which is raised in the operative complaint. During that call, Mr. Shaw declined to provide substantive clarification, declined to withdraw the requests, and stated that Defendants would instead present the matter to the Court, explaining that he was acting pursuant to Judge McDowell's Scheduling Order.

Judge McDowell's Tier 1 designation limits the quantity of discovery, not its relevance or lawfulness. The Scheduling Order requires completion of discovery with full and final responses and ongoing Rule 26.1 disclosures; it did not authorize invasive discovery into constitutionally protected medical, financial, or personal matters unrelated to the pleaded claims.

With respect to settlement conference scheduling, I am willing to participate provided that participation imposes no financial burden and does not impede my constitutional right of access to the courts. The Court has confirmed my indigent status, and I am unable to pay mediator fees or other costs. Accordingly, I proceed on the understanding that any settlement conference ordered by the Court would be a court-provided, no-cost service. My agreement to participate is made in good faith and does not waive any rights, objections, or pending discovery issues.

For the foregoing reasons, I request that Defendants withdraw the above-identified improper discovery requests by **8:00 a.m. on Monday, January 5, 2025**. As previously discussed, this is not a threat but a professional notice. Continued pursuit of discovery that is irrelevant, unlawful, and constitutionally invasive may require me to seek appropriate relief.

I will be sending, under separate cover, my responses to Defendants' discovery requests, along

with separate correspondence identifying specific requests that are improper under the Arizona Rules of Civil Procedure.

Please confirm promptly:

- When Defendants will produce full and final responses and documents responsive to my December 1 and December 22, 2025 discovery requests;

- Whether production will be made electronically and by U.S. Mail, as previously requested; and

- Whether any proposed settlement conference will be conducted without cost to me.

- If you would like me to complete the three-page document and the additional document we discussed, please send a separate email with clear, specific instructions identifying the materials referenced, and clear instructions I will make a good-faith effort to complete and file them by the end of business on Friday, January 2, 2025.

This correspondence is intended to preserve the record.

Sincerely,

Sandra Rodriguez

[Quoted text hidden]

EXHIBIT 6

Gmail Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Meet and Confer Compliance: Ongoing Discovery Violations (March 25, 2026 Record) CV2024-005940

1 message

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> Augustus H. Shaw IV†*
>
> Shaw & Lines, LLC
>
> 1490 S. Price Rd., Suite 318
> Chandler, Arizona 85286
>
> Phone 480-456-1500
>
> e-mail ashaw@shawlines.com

Arizona Rules of Civil Procedure, we are required to confer with you in person or by telephone prior to filing the Motion to Dismiss.

We are available at your convenience for a telephone conversation or an in-person meeting this week?

We look forward to hearing from you.

Diane Fincher
Paralegal
SHAW & LINES, LLC
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Dominick Detente, Esq.
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DRAFT Motion to Dismiss.pdf
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Dominick Détente <Dominick@shawlines.com> Mon, Mar 30, 2026 at 9:43 AM
To: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>
Cc: Augustus Shaw <ashaw@shawlines.com>, Diane Fincher <Diane@shawlines.com>

Good morning Ms. Rodriguez,

I hope you are doing well. I am sending one last follow-up attempt to meet and confer with me regarding our upcoming Motion to Dismiss.

Please feel free to call anytime today or tomorrow.

Thank you,

Dominick Detente, Esq.
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From: Dominick Détente
Sent: Wednesday, March 25, 2026 4:10 PM
To: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>
Cc: Augustus Shaw <ashaw@shawlines.com>; Diane Fincher <Diane@shawlines.com>
Subject: Rodriguez v. Gardens Gilbert, et al - CV2024-005940 - Motion to Dismiss Meet and Confir

[Quoted text hidden]

EXHIBIT 9

TRANSCRIPT SUMMARY AND SWORN AFFIDAVIT

(TELEPHONIC MEET AND CONFER BETWEEN RODRIGUEZ AND DEFENSE LEGAL COUNSEL SHAW)

Date of Call: March 25, 2026

Start Time: 10:30 AM MST

End Time: 10:45 AM MST

Participants: Sandra Rodriguez (*"Plaintiff"*), Augustus H. Shaw IV, Shaw & Lines, LLP (*"Defendant's Legal Counsel"*)

Subject: Transcript of March 25, 2026 Meet-and-Confer Regarding Defendants' Discovery Noncompliance and Deposition *(Civil Case No. CV2024-009540)*

I. SUMMARY OF MEET AND CONFER

The March 25, 2026 telephonic meet-and-confer was conducted as a direct follow-up to Plaintiff Rodriguez's March 23, 2026 written request addressing Defendants' ongoing discovery noncompliance and issues relating to Plaintiff's deposition. In that correspondence, Plaintiff identified specific deficiencies, including Defendants' failure to provide responses to Requests for Production, Interrogatories, Requests for Admission, and Rule 26.1 disclosures, and documented that more than 100 days had passed without production. Plaintiff expressly requested a telephonic conference to address these discovery issues and their impact on the scheduling of her deposition.

Defendants' lead counsel, Augustus H. Shaw IV, accepted that request on March 24, 2026 and coordinated the call for March 25, 2026 at approximately 10:30 a.m., confirming both awareness of and agreement to confer regarding the identified discovery disputes and Plaintiff's deposition.

Consistent with Plaintiff's written request, the March 25, 2026 call addressed Defendants' discovery obligations and Plaintiff's outstanding discovery requests, as well as Defendants' efforts to proceed with Plaintiff's deposition. At the outset, Plaintiff clarified that the meet-and-confer

was *"also regarding the violations with the discovery,"* referencing the same issues raised in her March 23, 2026 email. Defendants' counsel acknowledged and agreed to address those issues, stating, *"Sure. We can talk about that as well... let's take every issue one step at a time."*

During the call, the parties engaged in a substantive dispute regarding discovery compliance and deposition, including:

1) Whether discovery requests served in December 2025 were overdue;
2) Whether the Court's prior stay and subsequent February 23, 2026 order lifting the stay required immediate production;
3) Defendants' position that discovery deadlines were allegedly "reset" following the Amended Complaint; and
4) Defendants' continued failure to produce any responsive materials. Plaintiff expressly stated, *"They were provided to you on December 1st... it's been passed the deadline,"* and further asserted, *"You're withholding discovery... that is a violation,"* while Defendants' counsel disputed the timing and obligation to produce.
5) Plaintiff's deposition, with Plaintiff stating, *"The deposition is not going to happen until you guys have cured your discovery violations because I have not received [the requested materials],"* explaining that proceeding without discovery would impair her ability to defend her case. Not to mention, other defects related to the deposition.

The transcript reflects that Defendants, through counsel, sought to advance Plaintiff's deposition while simultaneously disputing and withholding discovery, despite Plaintiff's clear position that discovery compliance must occur first. This sequence demonstrates that deposition and discovery were discussed together and that the deposition dispute arose directly from Defendants' failure to produce discovery.

Importantly, Defendants' counsel expressly acknowledged on the record that the discussion constituted a meet-and-confer regarding discovery disputes, stating, "I would consider this a meet and confer regarding your discovery dispute," and further confirming, "I will... testify that this will satisfy as a meet and confer regarding your discovery dispute." This directly contradicts Defendants' assertion that no discovery issues were discussed during the March 25, 2026 call.

The call concluded without resolution of the discovery and deposition issues, with both parties acknowledging disagreement and the need for judicial intervention.

II. KEY FACTUAL POINTS FOR THE COURT

The March 25, 2026 call establishes that a telephonic meet-and-confer occurred under Rule 26(d), including discussion of both discovery disputes and Plaintiff's deposition. Although Defendants' counsel framed the call as relating to *"a discovery dispute regarding an in-person deposition,"* Plaintiff clarified it was *"also regarding the violations with the discovery,"* and counsel agreed to address both.

The transcript reflects that deposition issues were in fact discussed. Defendants' counsel attempted to move forward with deposition, asking, *"Would you like... to move on to the deposition?"*, while Plaintiff responded that deposition could not proceed due to outstanding discovery and lack of materials necessary to defend the case.

The record further shows that Plaintiff attempted to raise additional issues concerning the deposition, but the discussion was impeded by repeated interruptions and overlapping speech, limiting Plaintiff's ability to fully articulate her position during the call.

Following the call, Defendants' counsel maintained his position to proceed with deposition despite the unresolved discovery disputes and Plaintiff's stated objections regarding prejudice.

The transcript also reflects discussion of a Rule 26(d) joint filing. Plaintiff stated she was willing to complete her portion and file the joint statement after receiving Defendants' position, while Defendants' counsel suggested Plaintiff was "refusing," despite her clarification to the contrary.

Throughout the call, Defendants' counsel repeatedly asserted a lack of understanding of Plaintiff's discovery dispute and restated Plaintiff's positions in a manner inconsistent with her responses, while ultimately acknowledging, *"We have had our meet and confer regarding your discovery requests."*

III. TRANSCRIPT

Speaker 1 – 0:00 (Rodriguez)

This is Sandra Rodriguez on March 25, 2026, at about 10:30 a.m., I am waiting for the call from Augustus H. Shaw IV Defendants' lawyer to talk about the discovery issues and the requests.

Speaker 1 – 0:26 (Rodriguez)

Hello.

Speaker 2 – 0:29 (Shaw)

May I please speak to Sandra Rodriguez.

Speaker 1 – 0:31 (Rodriguez)

Yes, this is she.

Speaker 2 – 0:34 (Shaw)

Hello. This is Augustus Shaw from Shaw and Lines

Speaker 1 – 0:38 (Rodriguez)

Yes.

Speaker 2 – 0:39 (Shaw)

Calling in regard to the request meet and confer concerning the discovery dispute regarding an in-person deposition.

Speaker 1 – 0:52 (Rodriguez)

No, this is also regarding the violations with the discovery so.... *(Note: I'd referenced prior in my emails)*

Speaker 2 – 1:00 (Shaw interjects)

Sure. We can talk about that as well. We can talk about that as well, but let's take every issues, each issue one issue one step at a time.

Speaker 1 – 1:06 (Rodriguez)

Ok. Yeah. We can start with the discovery issues because that came first. That was due first.

Speaker 2 – 1:12 (Shaw)

Ok. Sure.

Speaker 1 – 1:13 (Rodriguez)

Uh huh. *(Note: Rodriguez agreeing)* Thank you.

Speaker 2 – 1:14 (Shaw)

Pursuant to the Rules of Civil Procedure your discovery requests are not due yet.

Speaker 1 – 1:22 (Rodriguez)

Yes, they are.

Speaker 2 – 1:25 (Shaw Interrupts Rodriguez)

So...

Speaker 1 – 1:25 (Rodriguez)

They were provided to you on December 1st. It's been passed the 60-day deadline per Rule 26 and so they are due.

Speaker 2 – 1:32 (Shaw Attempts to Interject before Rodriguez is done speaking)

If you remember… If you remember the court per minute entry umm stayed all discovery and disclosure at that time.

Speaker 1 – 1:43 (Rodriguez)

Right, but they lifted it on February 23rd so at that point you should have provided.

Speaker 2 – 1:45 (Shaw)

That's correct.

Speaker 1 – 1:46 (Rodriguez)

At that point, you should have provided the documents.

Speaker 2 – 1:49 (Shaw)

That is not. The.. That's not what the Rules of Civil Procedure say.

Speaker 1 – 1:54 (Rodriguez)

That's not what?

Speaker 2 – 1:54 (Shaw)

The Rules of Civil Procedure. The Rules of Civil Procedure.

Speaker 1 – 1:54 (Rodriguez)

Uh huh. *(Note: Rodriguez guiding Shaw to continue speaking, cuing Rodriguez was listening to what he was explaining.)*

Speaker 2 – 1:57 (Shaw)

The Rules of Civil Procedure say that uh that the deadlines are reset after the filing of the Amended Complaint.

Speaker 1 – 2:09 (Rodriguez)

That's not true. Where does it say that?

Speaker 2 – 2:12 (Shaw)

Ok. So.. Again, the Amended Complaint… I can not answer discovery requests from a Complaint that is no longer valid. So, the discovery request that you provided in December was based on your original complaint.

Speaker 1 – 2:28 (Rodriguez)

No, that is the same. It's the same. And I re-sent it to you as a follow up. It is the same. You are withholding discovery. It's the same and I explicitly said that in my follow up email. So, you're withholding discovery and that is a violation of the court order. The judge lifted the stay so at that point just like I provided all my initial disclosures, all my interrogatories and admissions like you guys requested, and I provided over 2,000 exhibits. I complied. You did not. So.. you and the defendants did not. There's no where in the rules that it says that it resets. That's not true because I read the rules.

Speaker 2 – 3:13 (Shaw)

Ok. Well, I guess we're going to have to agree to disagree. I do disagree with your analysis regarding when discovery is due; therefore, I would consider this a meet and confer regarding your discovery dispute.

Speaker 1 – 3:27 (Rodriguez)

Ok.

Speaker 2 – 3:32 (Shaw Interrupts Rodriguez)

And if you would uh if you would like to ask the court set in its most recent order to you. If you'd like to draft up a Rule 26(d) discovery dispute Joint Motion for Discovery Dispute. If you would like to draft that up with your discovery dispute in it. I'll be happy to fill out my portion of that Rule 26(d) and then you'll be able to file that with the court. But yes, this will.. I will uh testify that this will satisfy as a meet and confer regarding your discovery dispute concerning discovery that you provided in December 2025. Do you agree?

Speaker 1 – 3:27 (Rodriguez)

Do I agree that we just met and conferred with regards the discovery disputes? Is that what you're saying?

Speaker 2 – 4:20 (Shaw)

Yes, you had a discovery dispute regarding discovery and disclosures that you sought in December 2025. Is that correct?

Speaker 1 – 4:41 (Rodriguez)

All of the discovery that I requested. I sent you a few emails. December 1st, I sent you another one on December 22, 2026, and sent you another one the most recent one *(referencing March 2026 discovery request)*, but I know that's ones not due. But that one is one additional request that I'd made.

Speaker 2 – 5:03 (Shaw)

Ok. So again, the request that we are meeting and conferring on where discovery requests pursuant to the Original Complaint.

Speaker 1 – 5:14 (Rodriguez)

No, it is not pursuant to the Original. It's still a part of the case whether it's not the original.. it's still relevant to Amended Civil Complaint. So, no it is not.

Speaker 2 – 5:22 (Shaw interjects)

That is not what I am saying.

Speaker 1 – 5:23 (Rodriguez)

You guys.. uh huh *(Note: Rodriguez stops and listens to allow Shaw to explain)*

Speaker 2 – 5:23 (Shaw interjects)

That is not what I am saying… That's not what I'm saying… Maam That's not what I'm saying… Did you file… Did you the court accept your Amended Complaint in December 2025? Yes or no?

Speaker 1 – 5:35 (Rodriguez)

Yes, they did, but you are non-compliant.

Speaker 2 – 5:40 *(Shaw threatening Rodriguez)*

So, hold on..so..so.. and again. This is testimony that will be used against you in a court of law.

Speaker 1 – 5:47 *(Rodriguez)*

No well yeah. This is testimony that you are withholding.

(Note: Rodriguez Attempts to Speak and Shaw is Attempting to Shut her Down by Tell Interrupting her.)

Speaker 2 – 5:51 (Shaw become aggressive over the phone with Rodriguez)

HO… HO… HOLD ON!

Speaker 1 – 5:50 (Rodriguez Attempts to Speak and Shaw continues to shout.)

You are withholding. No, you know what.. you are bad faith. You are not. I am recording this as well so I am going to use this against you too. I will be sharing and I am filing a special action against you personally because this is litigation abuse. You're withholding evidence.

Speaker 2 – 6:07 (Shaw)

I don't. I don't understand. *(in the background)* Maam. If you're not going to allow me to speak.

(Note: claims Rodriguez is not letting him speak after he threatens, raises voice at her verbally)

Speaker 1 – 6:12 (Rodriguez)

No, you are threatening me because you're telling me.. you're going to use this… and you're trying to claim perjury.

Speaker 2 – 6:21 (Shaw)

K. You know what? Again. It is my understanding. My understanding.

Speaker 1 – 6:27 (Rodriguez)

Right?

Speaker 2 – 6:28 (Shaw)

That the court. That the court did not….

Speaker 1 – 6:32 (Rodriguez)

Ok. So, you're withholding evidence. You don't want to provide it you want to depose me without evidence which is a constitutional violation.

Speaker 2 – 6:40 (Shaw)

I'm not going to argue with you. I'm trying to tell you what I understand.

Speaker 1 – 6:44 (Rodriguez)

Yeah. You're trying to give me excuses for withholding evidence. Unfortunately.

Speaker 2 – 6:50 (Shaw)

We can not have a meet and confer if I do not understand what you are asking…

Speaker 1 – 6:58 (Rodriguez)

Ok. I am asking something very simple. I am asking for them to hand over the evidence that I've already requested. That I sent you… a follow up.. How do you not understand that?

Speaker 2 – 7:09 (Shaw)

Because I don't….

(Note: Shaw attempts to speaking in the background while Rodriguez is speaking)

Speaker 1 – 7:10 (Rodriguez)

How do you not understand that? This is a due process violation, this is a constitutional violation, you're impeding my ability to defend my case because a lot of the information may implicate you which a conflict of interest. So, they're withholding evidence whether this was for the Original Complaint or the Amended Complaint it doesn't matter. That is not in the rules.

Speaker 2 – 7:30 (Shaw)

I'm confused… I'm confused. So, if you will allow me to speak so we can handle my confusion that would be great. If you do not want to allow me to handle my confusion so I can understand what you are saying then that's fine. We can out conversation now.

(Note: While Rodriguez is speaking Shaw is speaking in the background)

Speaker 1 – 7:44 (Rodriguez)

Ok. So.. What is your confusion?

Speaker 2 – 7:52 (Shaw)

Ok.... Will you let me speak?

Speaker 1 – 7:55 (Rodriguez)

Sure.

Speaker 2 – 7:56 (Shaw)

Without interrupting me? *(Note: Making the inference and alleging Rodriguez is interrupting him after he'd continually dogged questions and threatened Rodriguez)*

Speaker 1 – 7:55 (Rodriguez)

So what exactly do you need clarity on?

Speaker 2 – 7:58 (Shaw)

Without interrupting me?

Speaker 2 – 7:59 (Shaw)

Ok so, what exactly do you need clarity on?

Speaker 1 – 7:58 (Rodriguez)

So what exactly do you need clarity on?

Speaker 2 – 8:03 (Shaw)

Ok this is what I need clarity on. When did the court allow you to file your Amended Complaint?

Speaker 1 – 8:20 (Rodriguez)

That has nothing to do with the evidence that's being requested. That was requested as of December 1st.

Speaker 2 – 8:22 (Shaw becomes combative)

Are you.... Are you refusing... refusing to answer my question?

Speaker 1 – 8:28 (Rodriguez)

Are you refusing? You're refusing to answer my question. Why are you withholding evidence that is required?

Speaker 2 – 8:31 (Shaw)

I thought.. I thought we had an agreement. The agreement was you were going to address my confusion.

Speaker 1 – 8:42 (Rodriguez)

Ok. I'm addressing your confusion. You're confusion...

Speaker 2 – 8:45 (Shaw continues to be combative and interrupts Rodriguez from speaking)

By... by not interrupting me. And answer the question.

Speaker 1 – 8:48 (Rodriguez)

No, because you're trying to... *(as Shaw continues to interrupt Rodriguez in the background)* you're use... and you're trying to put words in my mouth.

Speaker 2 – 8:52 *(Shaw continues to be combative and interrupts Rodriguez from speaking)*

MAAM...

Speaker 1 – 8:54 (Rodriguez)

Sir…you are not. (Rodriguez interrupted by Shaw)

Speaker 2 – 9:05 (Shaw)

Thank you for the conversation.

Speaker 1 – 9:05 (Rodriguez)

We will let the judge decide. *(Note: While Shaw continues to talk over her, extremely combative and toxic/hostile environment)*

Speaker 2 – 8:59 (Shaw)

We are going to have to agree to disagree.

Speaker 1 – 9:03 (Rodriguez)

Ok.

Speaker 2 – 9:04 (Shaw)

I do not understand what you are requesting.

Speaker 1 – 9:06 (Rodriguez)

Ok. And I do not understand why you are claiming that you don't understand the fact that this is a Due Process violation and you very well know that you are in violation of Rule 37. (While Rodriguez is speaking Shaw interrupts Rodriguez)

Speaker 2 – 9:20 (Shaw shouts in the background speaking over Rodriguez)

I do not understand. I do not understand. (continually repeats *"I do not understand."*) Because you refuse to help me understand.

Speaker 1 – 9:26 (Rodriguez)

No. No, you are trying to put words in my mouth. You're trying to twist my words around. *(As Shaw continues to talk over Rodriguez)* And then you're threatening me. That you're going to use this, and that I'm under oath and that's testimony.

Speaker 2 – 9:37 (Shaw)

We have had our meet and confer regarding your discovery requests. My response to is I do not understand your discovery requests.

Speaker 1 – 9:44 (Rodriguez)

Your response is you are denying my constitutional right, my right to access the evidence.

Speaker 2 – 9:53 (Shaw)

Here is my statement. My statement is that I do not understand your discovery dispute because you do not allow me to ask questions.

Speaker 1 – 10:06 (Rodriguez)

No, that is wrong. No, that is wrong. No, the recording will show… *(Note: During this portion of the call, Mr. Shaw repeatedly interrupted and spoke over Ms. Rodriguez, preventing her from completing her responses.)* the recording will show that, that you are threatening.

Speaker 2 – 10:09 (Shaw speaks over Rodriguez again)

Would you like… Would you like to move on to the deposition?

Speaker 1 – 10:15 (Rodriguez)

The deposition is not going to happen until you guys have cured your discovery violations because I have not received. The fact that you're even requesting a disposition when I don't have my

discovery is a Due Process violation. On the simple fact that I can't defend myself that's my 14th Amendment Due Process Right. So, you're impeding on my Constitutional Rights.

Speaker 2 – 10:47 (Shaw)

Ok so. We're going to have to agree to disagree. Under the Rules as the court explained to you under the Court's Minute Entry.

Speaker 1 – 10:56 (Rodriguez)

No, you're using an old minute entry. You are not using the most recent minute entry which was the February 23. *(Note: Ms. Rodriguez referencing February 23, 2026 Court Order issued by Judge McDowell.)* Where he lift.. *(Note: Ms. Rodriguez was interrupted again by Mr. Shaw.)*

Speaker 2 – 11:04 (Shaw)

No. So I'm using… I'm using the Minute Entry and this minute entry. Repeatedly asking. Will you allow me to speak? Will you allow me to speak?

(Note: During the call, Mr. Shaw paused mid-sentence and asked whether he would be permitted to "speak," despite no audible interruption by Ms. Rodriguez at that time.)

Speaker 1 – 11:12 (Rodriguez)

You're speaking.

Speaker 2– 11:14 (Shaw)

Ok so. The minute entry that I am referring to is a minute entry dated… it is dated March 3, 2026, and it reads as follows.

Speaker 1 – 11:26 (Rodriguez)

Ok so that's not.

Speaker 2 – 11:30 (Shaw)

The Court is in receipt of the plaintiffs. Will you allow me to speak? Will you allow me to speak?

(Note: (Note: Mr. Shaw repeatedly stated "will you allow me to speak," causing the discussion to become repetitive and obstructing efforts to address and resolve the issues raised during the meet-and-confer.)

Speaker 1 – 11:33 (Rodriguez)

We are not going to agree on any of this.. and this is another reason why I don't want to have an in-person deposition because the interactions with you and the defendants have been incredibly hostile. *(Note: Mr. Shaw again spoke over and interrupted Ms. Rodriguez while she was attempting to respond.)*

Speaker 2 – 11:49 (Shaw speaks over Rodriguez)

Ok very good.

Speaker 1 – 11:50 (Rodriguez)

On top of the fact, that I have reason to believe you and the defendants are stalking my social media pages.

Speaker 2 – 11:56 (Shaw states in the background)

I… I understand so…

Speaker 1 – 11:59 (Rodriguez)

I… I would like for you to honor your original commitment and umm keep …*(Note: Mr. Shaw continues to repeatedly interrupted Ms. Rodriguez, preventing her from completing her statement.)*

Speaker 2 – 12:03 (Shaw states in the background)

I understand. Maam.

Speaker 1 – 12:03 (Rodriguez)

The original virtual deposition when that time does come, but I would like to judge to make a decision on all of this.

Speaker 2 – 12:12 (Shaw)

Ok very good. So you'd like the judge to make a decision on all of this?

Speaker 1 – 12:14 (Rodriguez)

Right.

Speaker 2 – 12:14 (Shaw)

So Under the Rules I will send you the Rule 26(d) Joint Statement to fill out your portion of that Joint Statement.

Speaker 1 – 12:29 (Rodriguez)

You can fill yours out. And I can fill out my portion. I can file it.

(Note: Mr. Shaw's portion of the Joint Statement previously referenced, which Ms. Rodriguez has requested he complete; Ms. Rodriguez stands ready to complete her portion and volunteers to file the Joint Statement upon his compliance.)

Speaker 2 – 12:36 (Shaw)

So, you're refusing to. I want to make sure I understand. You're refusing… You're refusing… to fill out your portion.

(Note: Mr. Shaw repeatedly restated Ms. Rodriguez's statements in a manner inconsistent with her original wording, altering the substance of her responses.)

Speaker 1 – 12:44 (Rodriguez)

No. I am not refusing. You again are putting words in my mouth.

(Note: Mr. Shaw repeatedly interrupted Ms. Rodriguez while she was speaking, resulting in overlapping speech.)

Speaker 2 – 12:48 (Shaw)

Okay. Okay. Maam! Let me finish my conversation. If you won't let me finish my conversation.

Speaker 1 – 12:51 (Rodriguez)

Well, you're saying I'm refusing. I'm correcting you because you're putting…

(Note: Mr. Shaw repeatedly interrupted Ms. Rodriguez while she was speaking, resulting in overlapping speech.)

Speaker 2 – 13:00 (Shaw)

Ok. Here is my question to you. Will. Will you be filing your own 26.b motion?

Speaker 1 – 13:11 (Rodriguez)

Ok. Just to clarify you said that I'm refusing… and to clarify I never said that.

(Note: Mr. Shaw again interrupted Ms. Rodriguez.)

Speaker 2 – 13:13 (Shaw)

No. That is not what I said. I'm asking you a question. Will you be filing your own Rule 26(d) motion?

Speaker 1 – 13:34 (Rodriguez)

I can we already met and conferred, but like I said I proposed that you fill out your position, and you can send it to me, and then I'm happy to file it.

Speaker 2 – 13:45 (Shaw)

Ok. So what you're saying is that? You would like me to send you because the 26(d) motion should be filed by the person who is seeking it so I'm seeking the relief.

(Note: During this portion of the call, Mr. Shaw made statements regarding Rule 26(d) and filing requirements that are not reflected in the Arizona Rules of Civil Procedure. He also continually suggested that Ms. Rodriguez was unwilling to complete the Joint Statement, which is inconsistent with her prior communications confirming her willingness to complete her portion and file it.)

Speaker 1 – 14:05 (Rodriguez)

Ok then I will file my own in that case.

Speaker 2 – 14:06 (Shaw)

Ok. You're saying here today that you will file your own 26(d) motion concerning our discovery dispute regarding your deposition. Is that correct?

Speaker 1 – 14:22 (Rodriguez)

At this point, what I am saying is that we are not in agreement on any of the topics. We have already completed an attempt for a meet and confer. We don't agree and then we can kind of leave it at that. We don't agree. Let's just leave it at that.

Speaker 2 – 14:33 (Shaw)

Very good. Thank you for your time today.

Speaker 1 – 14:37 (Rodriguez)

Thank you. Have a nice day. Bye.

Call Ended at 10:45 am

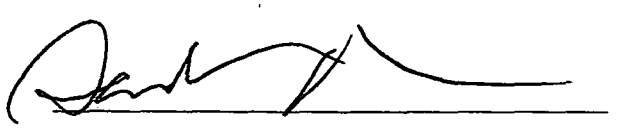
IV. AFFIDAVIT OF SANDRA RODRIGUEZ

I, Sandra Rodriguez, declare under penalty of perjury pursuant to the laws of the State of Arizona as follows:

1. **I personally participated in the March 25, 2026 meet-and-confer call with Defendants' counsel, Augustus H. Shaw IV of Shaw & Lines, LLC,** as reflected in the foregoing transcript titled *"Transcript Summary and Sworn Affidavit* (Telephonic Meet-and-Confer)
2. **The transcript summary provided herein is a true and accurate representation** of the content of that phone call to the best of my knowledge, memory, and ability.
3. **The call was recorded contemporaneously,** and I affirm that the contents of the summary are consistent with the recorded communication.
4. **I am willing and able to provide a copy of the audio recording to the Court,** if so requested, for purposes of authentication, verification, or further evidentiary review.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 2rd day of April, 2026, in Maricopa County, Arizona.



Sandra Rodriguez

EXHIBIT 10

Gmail Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Second Meet and Confer; Discovery Deficiencies; Deposition; Settlement Statement

Augustus Shaw <ashaw@shawlines.com> Thu, Apr 23, 2026 at 1:26 PM
To: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>
Cc: Dominick Détente <Dominick@shawlines.com>, Elizabeth Mundall <elizabeth@shawlines.com>, Diane Fincher <Diane@shawlines.com>

Ms. Rodriguez:

As an initial starting point, you allege "email abuse" and you state you have not provided your consent to receive e-mail communications yet you continue to communicate with attorneys in the Firm via e-mail. **Please clearly state whether you desire to communicate via e-mail. If you do not wish to communicate via e-mail, then this Firm will no longer communicate with you via e-mail.**

Rodriguez First Assertion

As previously stated—and confirmed by the March 25, 2026 recorded meet-and-confer—the parties have satisfied Rule 37(a)(1), Ariz. R. Civ. P. Defendants' discovery deficiencies and deposition disputes remain unresolved, yet you proceeded without agreement.

Defendants' Response: As previously conveyed to you, the parties did not meet and confer on March 25, 2026 regarding your current discovery disputes. **To the extent you have any recordings between the parties, you are hereby notified to immediately disclose all recordings.** If you would like a Rule 26(d) meet and confer regarding this matter, please let me know or give me a call.

Rodriguez Assertion

Service also remains defective. Plaintiff has not been served by mail as required under Rule 5(c)(2)(C), Ariz. R. Civ. P., and email service is ineffective absent express consent, which has not been provided. Please cure immediately.

Defendants' Response: The Defendants have properly mailed all discovery and disclosure requests. If you desire that we resend said requests, please let me know. If you would like a Rule 26(d) meet and confer regarding this matter, please let me know or give me a call.

Rodriguez Assertion

Consistent with the Court's Orders and prior correspondence, including my April 22, 2026 email regarding Defendants' lack of readiness for settlement conference certification, the following topics will be addressed during the second meet-and-confer:

I. SECOND MEET AND CONFER PROPOSAL

I am available for a follow-up meet and confer on April 28, 2026 at 11:00 AM or 1:00 PM to address Defendants' talking points listed below. Please confirm.

Defendants' Response – I, or attorney Dominick Détente are available for a follow-up meet and confer on April 28, 2026 at between 11:30am and 12:45pm.

Rodriguez Assertion

II. DEPOSITION

The deposition should proceed virtually consistent with the parties' prior agreement during the December 22, 2025 meet-and-confer (recorded). Remote depositions are expressly permitted under Rule 30(b)(4), Ariz. R. Civ. P., and are appropriate here to

ensure fairness and efficiency given the ongoing discovery issues and continued litigation abuse. Counsel is expected to proceed in good faith and consistent with the Arizona Rules of Civil Procedure and the Arizona Rules of Professional Conduct.

Proceeding with deposition prior to curing discovery deficiencies would result in undue prejudice and violates principles of fundamental fairness and due process.

Defendants' Response - Pursuant to the Court's Order dated December 19, 2025, "IT IS ORDERED the deposition of Plaintiff shall be scheduled to occur at the office of the Court Reporter or at the State Bar Association office." The Defendants will not deviate from the Court's Order, as the Defendants have a right to an in-person deposition.

Rodriguez Assertion

III. DISCOVERY VIOLATIONS OUTSTANDING

Defendants must immediately cure their discovery deficiencies, which will be addressed during the follow-up meet and confer prior to the May 4, 2026 conference, as follows:

1. **Gardens Gilbert Community Association Board Members** (individually, including all current, former, and any newly elected members following the 2026 GGCA Board election). This designation is intended to be broad and inclusive for purposes of disclosure and discovery under Rule 26.1, Ariz. R. Civ. P., and is not limiting; it encompasses all persons who have served, or are serving, as GGCA Board Members during the relevant time period, whether or not specifically identified, and includes any additions, changes, or updates identified through ongoing investigation or supplementation.:

A. Former GGCA Board Members

- o Anna Schultz (Former Board President)
- o Sara Herrera
- o Kristene Celaya
- o Fiona (last name unknown)
- o Jennifer Watkins
- o RFAs – complete, verified responses
- o Uniform & Non-Uniform Interrogatories – complete, verified responses
- **RFPs – full document production**

Defendants' Response – While the Defendants are not completely sure about your request, the Defendants can still assert that the second attachment satisfies your requests.

B. Anna Schultz (individually):

- o RFAs – complete, verified responses
- o Uniform & Non-Uniform Interrogatories – complete, verified responses
- o RFPs – full document production

Defendants' Response – You have not specifically provided a Request for Admissions, Uniform & Non-Uniform Interrogatories, or Requests for Production of Documents for Defendant Anna Schultz. If you wish to provide these discovery requests, they will be evaluated pursuant to the Arizona Rules of Civil Procedure.

C. Brooke Sortor (individually):

- o RFAs – complete, verified responses
- o Uniform & Non-Uniform Interrogatories – complete, verified responses
- o RFPs – full document production

Defendants' Response – You have not specifically provided a Request for Admissions for Defendant Brooke Sortor. If you wish to provide this discovery requests, it will be evaluated pursuant to the Arizona Rules of Civil Procedure.

Uniform & Non-Uniform Interrogatories for Defendant Brooke Sortor are attached.

You have not specifically provided a Requests for Production of Documents for Defendant Brooke Sortor. If you wish to provide these discovery requests, they will be evaluated pursuant to the Arizona Rules of Civil Procedure.

C. Harmin Cadis (individually):

- o RFAs – complete, verified responses
- o Uniform & Non-Uniform Interrogatories – complete, verified responses
- **RFPs – full document production**

Defendants' Response – You have not specifically provided a Request for Admissions for Defendant Harmin Cadis. If you wish to provide this discovery requests, it will be evaluated pursuant to the Arizona Rules of Civil Procedure.

Uniform & Non-Uniform Interrogatories for Defendant Harmin Cadis are attached.

You have not specifically provided a Requests for Production of Documents for Defendant Harmin Cadis. If you wish to provide these discovery requests, they will be evaluated pursuant to the Arizona Rules of Civil Procedure.

IV. FAILURE TO MEET SETTLEMENT READINESS REQUIREMENTS

As outlined in my April 22, 2026 correspondence to co-counsel, on which you were copied, Defendants have not satisfied the requirements necessary to certify readiness for a settlement conference, including:

- Failure to provide full Rule 26.1 disclosures

Defendants' Response – Defendants asserts that it has provided all disclosure and discovery pursuant to the Rules of Civil Procedure as attached.

- Ongoing discovery disputes
- Lack of completed discovery necessary for meaningful settlement discussions
- No substantive good-faith settlement engagement

Defendants' Response: - The Defendants cannot interpret your meaning of "good faith." The Defendants are always willing to entertain settlement offers and attend settlement conferences. Defendants assert that all discovery and disclosure requests properly made have been responded to timely.

Rodriguez Assertion

V. SETTLEMENT CONFERENCE JOINT STATEMENT

As discussed during the March 25, 2026 meet-and-confer, each party will provide its respective position for the Joint Statement for Settlement Conference. Defendants may complete their portion, and Plaintiff will complete and file the joint statement to ensure the record accurately reflects both parties' positions.

There has been no agreement to private mediation. Any representation that settlement discussions have occurred or that this matter is ready for meaningful settlement is not supported by the current record.

Defendants' continued attempt to certify readiness despite known discovery deficiencies reflects a lack of reasonable inquiry and good faith, in violation of Rule 26(g), Ariz. R. Civ. P., and may warrant sanctions. This conduct also risks misrepresentation to the Court.

Such misstatements raise concerns under Rules 11 and 26(g), Ariz. R. Civ. P., and ER 3.3 and 4.1, Ariz. R. Sup. Ct. 42, which require truthful and good-faith representations to the Court.

Defendants' Response: Defendants attempted to send you a DRAFT Joint Request and Certification of Readiness for Setting Settlement Conference Under Rule 16(i), Ariz. R. Civ. P. on April 21, 2026. You refused to participate, as indicated above. Therefore, the defendants will file their own Certification of Readiness for Setting Settlement Conference Under Rule 16(i), Ariz. R. Civ. P. on April 21, 2026 on April 30th unless you desire to participate. **If you would like a Rule 26(d) meet and confer regarding this matter, please let me know or give me a call.**

Rodriguez Assertion

VII. CEASE AND DESIST EMAIL ABUSE

You are directed to cease and desist from sending repetitive emails and making repeated phone calls that threaten sanctions or demand immediate responses.

Such conduct is improper under Rule 1 and Rule 26(g), Ariz. R. Civ. P., and ER 3.1, 3.4, and 4.4(a), Ariz. R. Sup. Ct. 42, which require that litigation be conducted in a manner that is fair, proportional, and not intended to harass or burden another party.

Defendants' Response: You allege "email abuse" and you state you have not provided your consent to receive e-mail communications **yet you continue to communicate with attorneys in the Firm via e-mail. Please clearly state whether you desire to communicate via e-mail. If you do not wish to communicate via e-mail, then this Firm will no longer communicate with you via e-mail and will not review or receive any e-mails from you as you have demanded. Moreover, if we do not communicate via phone, how do we meet and confer?**

Please let me know if you would like to meet and confer on April 28, 2026 between 11:30am and 12:45pm.

Augustus H. Shaw IV†*

Shaw & Lines, LLC

1490 S. Price Rd., Suite 318
Chandler, Arizona 85286

Phone 480-456-1500

e-mail ashaw@shawlines.com

web site www.shawlines.com

†Licensed in Arizona and Nebraska

*President- College of Community Association Lawyers

*Faculty Associate Professor - Arizona State University O'Connor College of Law

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CONFIDENTIALITY STATEMENT: THIS E-MAIL MESSAGE AND ANY ACCOMPANYING DOCUMENTS CONTAIN INFORMATION WHICH IS ATTORNEY PRIVILEGED, CONFIDENTIAL AND INTENDED ONLY FOR THE USE OF THE ABOVE-NAMED RECIPIENT. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, PRINTING OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE OR RETURN THE E-MAIL MESSAGE TO US. THANK YOU.

THIS FIRM MAY ACT AS A DEBT COLLECTOR. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

[Quoted text hidden]

8 attachments

ME on Motions filed 11.7-12.15.pdf
472K

Post-Amendment Responses to Plaintiff's Discovery Requests.pdf
429K

Association's - Initial Disclosure Statement .pdf
352K

Association's - First Supplemental Disclosure Statement (12.23.25).pdf
396K

Association's - Verified Initial Disclosure Statement to Amended Complaint.pdf
1162K

Association's First Supplemental Disclosure Statement to Amended Complaint.pdf
507K

Disclosed Documents GARDENS0214-0215.pdf
55K

Association's Second Supplemental Disclosure Statement to Amended Complaint.pdf
505K

EXHIBIT 11

Gmail Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Rodriguez v. Gardens Gilbert - CV2024-005940 - Joint Request and Certification of Readiness for Settlement Conference

1 message

Dominick Détente <Dominick@shawlines.com> Tue, Apr 21, 2026 at 4:26 PM
To: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>
Cc: Augustus Shaw <ashaw@shawlines.com>, Diane Fincher <Diane@shawlines.com>

Good afternoon Ms. Rodriguez,

Attached please find the Joint Request and Certification of Readiness for Setting Settlement Conference Under Rule 16(i), Ariz. R. Civ. P.

Pursuant to the Court's February 3, 2026 Scheduling Order, the parties are required to certify this matter as ready for a settlement conference no later than April 30, 2026. Because this is a joint filing, we require your review and approval prior to submission.

Please review the attached document and confirm your approval to file on your behalf, or provide any revisions you believe are necessary, no later than April 28, 2026, so that we may comply with the Court's deadline.

If we do not receive a response, Defendants will proceed as appropriate to comply with the Court's Order.

A courtesy copy will also be sent to you via U.S. Mail.

Thank you, and we look forward to your prompt response.

All the best,

Dominick Detente, Esq.
SHAW & LINES, LLC
We've Moved!
1490 S. Price Rd., Suite 318
Chandler, Arizona 85286
480.456.1500

Confidentiality Statement: This email and any accompanying files transmitted are confidential and intended solely for the receipt and use of the individual to whom it is addressed. This confidentiality includes the privilege of attorney/client protections. This message and files transmitted herewith are not to be forwarded, copied, distributed or disseminated to any person to whom said privileges do not apply. If you have received this message without being addressed by this sender, please disregard and delete the same, and notify this sender.

Joint Request and Certification of Readiness for Setting Settlement Conference under Rule 16(I), Ariz. R. Civ. P..docx
37K

EXHIBIT 12

SHAW & LINES, LLC
1490 South Price Road, Suite 318
Chandler, AZ 85286
Phone (480) 456-1500
ashaw@shawlines.com
dominick@shawlines.com
Augustus H. Shaw IV, SBN 021593
Dominick D. Detente, SBN 040350
Counsel for Defendants

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

SANDRA RODRIGUEZ, Plaintiff, vs. GARDENS/GILBERT COMMUNITY ASSOCIATION, an Arizona non-profit corporation, FOCUS HOA MANAGEMENT, LLC, an Arizona limited liability company; HARMAN CADIS; BROOKE SORTOR; and ANNA SCHULTZ, Defendants.	Case No. CV2024-005940 *Consolidated with Case No. CV2024-013806* **JOINT REQUEST AND CERTIFICATION OF READINESS FOR SETTING SETTLEMENT CONFERENCE UNDER RULE 16(i), ARIZ. R. CIV. P.** *Assigned the Hon. David McDowell*

The parties, by and through undersigned counsel, jointly request the scheduling of a settlement conference pursuant to Rule 16(i) of the Arizona Rules of Civil Procedure and the Court's February 3, 2026 Scheduling Order. As set forth in that Order: "Settlement conference or private mediation: The parties shall participate in a settlement conference using an appointed Judge Pro Tem no later than July 31, 2026. To meet this deadline, they must certify this matter as ready for a settlement conference no later than April 30, 2026."

In support of this request, the parties certify and avow the following:

1. The discovery and disclosure required for the parties to meaningfully engage in comprehensive settlement negotiations is complete (this certification relates only to preparedness for settlement conference purposes and shall not limit the pursuit of on-going discovery or further disclosure under the applicable rules/court orders) however,

there are some pending discovery disclosure disputes that should not limit the parties ability to be prepared for settlement conference purposes between the parties and would not interfere with a meaningful settlement conference;

2. The parties have engaged in good-faith settlement discussions and have been unable to reach an agreement. If the parties intended to engage in a private mediation or settlement conference, they have done so and have exhausted those efforts;

3. There are no pending or anticipated partially or fully dispositive motions which would need to be decided prior to the parties engaging in good-faith settlement discussions in an effort to reach a complete settlement in this matter;

4. The parties understand and agree that they are obligated to contact the judge *pro tempore* within ten (10) calendar days of receipt of the ADR Notice of Appointment of judge *pro tempore* to initiate a joint telephonic conference to arrange the time and location of the settlement conference, or respond as so directed by the judge *pro tempore* with dates for the settlement conference;

5. The parties understand and agree that they shall attend the settlement conference in-person, virtually or telephonically as directed by the judge *pro tempore*. The party or party representative will have full settlement authority and be available throughout the settlement conference;

6. The parties shall timely comply with the submission requirements set forth in Rule 16.1, Arizona Rules of Civil Procedure, or as otherwise directed by the judge *pro tempore* responsible for conducting settlement conference; and

7. The parties are aware of Rule 16.1(g) and Rule 16(h), Arizona Rules of Civil Procedure, which would allow the court to enter sanctions if the information certified here to be true is not or if the parties are not prepared to participate in a settlement conference or fail to participate in the conference in good-faith.

8. Undersigned counsel confirm that they discussed Rule 16 and this Certification with their clients, who have acknowledged an understanding of their

individual participation obligations.

DATED this 21st day of April 2026.

SHAW & LINES, LLC

/s/ Dominick D. Detente
Augustus H. Shaw, IV, Esq.
Dominick D. Detente, Esq.
1490 South Price Road, Suite 318
Chandler, Arizona 85286
Counsel for Defendants

/s/
Sandra Rodriguez
4375 East Betsy Lane
Gilbert, Arizona 85296
sandra.rodriguez0339@gmail.com
Plaintiff, Pro Per

ORIGINAL submitted for filing
This 31st day of March 2026, with:

Clerk of the Court
Maricopa County Superior Court
Via TurboCourt (online filing)

COPY of the foregoing served by email and mail to:
This 31st day of March 2026, to:

Sandra Rodriguez
4375 East Betsy Lane
Gilbert, Arizona 85296
sandra.rodriguez0339@gmail.com
Plaintiff, Pro Per

By: /s/ Diane Fincher

EXHIBIT 13

Gmail Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Initial Rule 26.1 Disclosure

1 message

Sandra Rodriguez <sandra.rodriguez0339@gmail.com> Mon, Dec 1, 2025 at 5:04 PM
To: Augustus Shaw <ashaw@shawlines.com>
Bcc: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Good Evening, Mr. Shaw,

Please find attached Plaintiff's Initial Rule 26.1 Disclosure. A hard copy has also been sent to your office via Priority U.S. Mail.

In addition, the following discovery materials are enclosed and require complete responses within *30 days from today* from the former and current GGCA Board Members, Focus HOA Management, alogn with Anna Schultz, Harmin Cadis, and Brooke Sortor in accordance with the Arizona Rules of Civil Procedure:

A. Former GGCA Board Members with Knowledge
- Anna Schultz – Former GGCA Board President
- Sara Herrera
- Kristene Celaya
- Fiona (last name unknown – attended the May 20, 2025 Board Meeting)
- Jennifer Watkins

B. Current GGCA Board Members with Knowledge
- Anna Foss
- Josh Dick
- Corey Krebs
- Coyan Bidwell (current and former Board Member)

1. Defendant's Requests for Admissions

2. Defendant's First Set of Requests for Production of Documents

3. Defendant's Uniform and Non-Uniform Interrogatories

Please confirm receipt.

Sincerely,

Sandra Rodriguez

6 attachments

DEFENDANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS 12.01.25.pdf
316K

00. Initial 26.1 Disclosure 12.01.25.pdf
485K

DEFENDANT'S REQUESTS FOR ADMISSIONS 12.01.25.pdf
242K

Defendant's Uniform & Non Uniform Interrogatories (Brooke Sortor) 12.01.25.pdf
265K

Defendant's Uniform & Non Uniform Interrogatories (GGCA Board) 12.01.25.pdf
287K

Defendant Uniform & Non Uniform Interrogatories (Harmin Cadis) 12.01.25.pdf
293K

EXHIBIT 14

Gmail Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

(Arizona Rules of Civil Procedure 26.1 & 34)

1 message

Sandra Rodriguez <sandra.rodriguez0339@gmail.com> Mon, Dec 22, 2025 at 4:05 PM
To: Augustus Shaw <ashaw@shawlines.com>
Bcc: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Good Evening, Mr. Shaw,

As a quick reminder, I have not received the responses to the first set of documents email to you on December 1, 2025 which are due on December 30, 2025. Attached please find ***Plaintiff's Second Request for Production of Documents,*** served pursuant to Arizona Rules of Civil Procedure 26.1 and 34, along with the referenced materials. A hard copy is also being sent to your office via the U.S. Mail.

This Second Request is *supplemental and non-duplicative* of Plaintiff's prior discovery and is narrowly tailored to obtain additional documents necessary to support the claims and issues disclosed in Plaintiff's Initial Rule 26.1 Disclosure. The specific requests and governing instructions are set forth in the attached document.

Pursuant to the Arizona Rules of Civil Procedure, responses and productions are due within 30 days of service. Please also confirm receipt of this email and the attached materials.

Please confirm receipt.

Sincerely,

Sandra Rodriguez

Defendants Second Set Production of Docs _for Def to Answer_ 12.22.25.pdf
1155K

EXHIBIT 15

Association's Second Supplemental Disclosure Statement to Amended Complaint
Dated: April 13.266

SHAW & LINES, LLC
1490 South Price Road, Suite 318
Chandler, AZ 85286
Phone (480) 456-1500
ashaw@shawlines.com
Augustus H. Shaw IV, SBN 021593
Dominick D. Detente, SBN 040350
Attorneys for Defendants

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

SANDRA RODRIGUEZ, Plaintiff, vs. GARDENS/GILBERT COMMUNITY ASSOCIATION, an Arizona non-profit corporation, FOCUS HOA MANAGEMENT, LLC, an Arizona limited liability company; HARMAN CADIS; BROOKE SORTOR; and ANNA SCHULTZ, Defendants.	No. CV2024-005940 **DEFENDANT'S SECOND SUPPLEMENTAL DISCLOSURE STATEMENT TO AMENDED COMPLAINT** *Assigned to the Hon. David McDowell*

Defendants Gardens/Gilbert Community Association (hereafter, the "Association"), Focus HOA Management, LLC, (hereafter, "Focus"), Harman Cadis, Brooke Sortor, and Anna Schultz (collectively hereafter, the "Defendants") hereby submit this **Second Supplemental** Disclosure Statement to Amended Complaint in compliance with Rule 26.1, Ariz. R. Civ. P. This Disclosure Statement and its contents represent the product of investigation to date. Further investigation and discovery may bring to light additional information that may have a bearing on the Defendants' theories and claims for recovery and Defendants reserve the right to supplement their Disclosure Statement

accordingly. **Supplemental and/or amended information is emphasized in bold and *italicized.***

Sandra Rodriguez (hereafter, the "Plaintiff") filed two related lawsuits in Maricopa County Superior Court: the first, CV2024-005940, filed March 21, 2024, against the Gardens Gilbert Community Association; and the second, CV2024-013806, filed June 3, 2024, against Focus HOA Management, LLC, Harman Cadis, and Brooke Sortor.

Both actions alleged the same underlying facts and overlapping legal theories. In her complaints, Plaintiff asserts four principal allegations against the Association and its management company:

1. the Association refused to provide her with a clear and transparent explanation of their financial practices and infringed on her right to access copies of financial documents;
2. the Association refused to address a community petition to clean up and maintain the community to the high standards required by the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460 (hereafter, the "Declaration" or "CC&Rs");
3. the Association demonstrated negligence by refusing to keep the community clean and up to those high standards; and
4. the Association took adverse or retaliatory action against her when she requested help to address community nuisance and lack of cleanliness.

On April 10, 2024, Defendants Focus, Harman Cadis, Brooke Sortor, and Anna Schultz filed a Motion to Dismiss in CV2024-005940. The Superior Court granted that motion on August 30, 2024, and subsequently entered a Final Judgment under Rule 54(b), dismissing claims with prejudice and awarding fees and costs.

Plaintiff appealed. On August 12, 2025, the Arizona Court of Appeals, Division One, issued a Memorandum Decision in Rodriguez v. Focus HOA Management, LLC, et

al., Nos. 1 CA-CV 24-0790 and 1 CA-CV 25-0040 (Appeals Court Designated as "Consolidated"), affirmed in part, reversed in part, vacated in part, and remanded. The Court affirmed the dismissal of Plaintiff's claims for breach of contract, breach of duty, First Amendment violations, failure to provide access to financial records, and discrimination/retaliation, but clarified that those dismissals were without prejudice, correcting the Superior Court's error in its September 10, 2024 minute entry, which had indicated the dismissals were with prejudice. The Court reversed the dismissal of Plaintiff's negligence, gross negligence, and intentional tort claims, vacated the award of attorney's fees and costs, and remanded the case for further proceedings. The opinion clarified that Plaintiff's remaining negligence-based claims were not properly precluded under Arizona law.

The two cases were consolidated by Superior Court order on September 3, 2025, following Defendants' Motion to Consolidate based on the August 12, 2025 Appeals Court ruling. The order designated CV2024-005940 as the lead case for all further proceedings. In the same ruling, the Court ordered that the consolidated matter be transferred to the Honorable David McDowell for all subsequent proceedings, replacing the prior assignment to the Honorable Roderick Coffey. The reassignment is administrative in nature and not the result of any party's or Honorable Coffey's motion or conduct. Honorable Coffey is no longer on a Civil Assignment, and Honorable McDowell has taken over that calendar and was assigned to this case.

In its decision, the appellate court emphasized that the Association's obligations under A.R.S. § 33-1805 and the community's CC&Rs include maintaining common areas. It further held that the CC&Rs' Waiver of Damages Clause does not bar claims for gross negligence or intentional misconduct, which must be allowed to proceed.

The defendants now include the Association, Focus, Harman Cadis, Anna Schultz, and Brooke Sortor. The remaining counts following the August 12, 2025 Court of Appeals' ruling were as follows:

> As to Defendants Focus, Harman Cadis, Anna Schultz, and Brooke Sortor, the remaining claims include negligence, gross negligence, and intentional torts, all arising solely from Plaintiff's allegation that the Association failed to address a community petition requesting cleanup and maintenance of the community in accordance with the CC&Rs.
>
> As to Defendant Gardens Gilbert Community Association, the remaining claims include breach of contract, breach of the covenant of good faith and fair dealing, negligence, gross negligence, and intentional torts, arising from the same common area maintenance allegations, as well as claims that the Association failed to respond to member financial records requests pursuant to A.R.S. § 33-1805 and engaged in retaliatory conduct when Plaintiff sought assistance addressing community nuisance and cleanliness issues.

On February 3, 2026, Judge McDowell issued a Ruling on Plaintiff's Motion to Amend Civil Complaint. The Court permitted Plaintiff to file an amended complaint subject to express limitations, including that: only tort claims may be stated against the agents of the Association or Focus; and, the Court of Appeals affirmed that contract-based and first amendment claims do not and cannot exist against agents of the Association or Focus.

Plaintiff thereafter submitted Amended Civil Complaint #3, filed on February 13, 2026, (hereafter, the "Amended Complaint"), which asserts eleven (11) counts and

includes an extensive narrative statement of alleged facts. The Amended Complaint now constitutes the operative pleading in this consolidated matter pending before Judge McDowell under case number CV2024-005940.

Defendants deny Plaintiff's allegations in the Amended Complaint and maintain that Defendants have acted lawfully, reasonably, and in compliance with the CC&Rs and applicable Arizona law.

I. RULE 26.1(a) DISCLOSURE

(1) FACTUAL BASIS FOR CLAIMS/DEFENSES - RULE 26.1(a)(1).

The Association is a nonprofit Arizona corporation organized as a residential property owners' association and governed by the Arizona Nonprofit Corporation Act statutes (A.R.S. § 10-3101, et seq.), and operates as the homeowners' association for the Gardens Gilbert Community Association, a platted residential community within Maricopa County, Arizona. All lots within the Association are subject to the CC&Rs.

The CC&Rs grant the Association the authority and obligation to manage, maintain, and enforce the restrictions applicable to real property within the Association. Pursuant to the Declaration and its bylaws, the Association is governed by a Board of Directors elected by the community.

Focus is a professional management company retained by the Association to perform administrative and management services pursuant to a management agreement. At all relevant times, Focus acted as an agent of the Association within the scope of its delegated authority. Defendants intend to move to seek summary disposition as to Focus,

on the grounds that Focus acted exclusively within the scope of its agency relationship with the Association and that any alleged liability is derivative in nature and does not support an independent cause of action against Focus.

The individual board member defendant, Anna Schultz, (hereafter, the "Individual Association Defendant"), and the individual management member defendants, Harman Cadis, and Brooke Sortor, (hereafter, collectively the, "Management Defendants"), are individuals who, at various relevant times, acted on behalf of the Association, within the scope of their respective roles. All actions taken by these individuals were undertaken in connection with Association governance, enforcement of the CC&Rs, architectural review, records administration, or other legitimate HOA functions. Defendants intend to move to seek summary disposition as to the Individual Association Defendant and Management Defendants on the grounds that they acted at all relevant times within the scope of their authorized roles as agents of the Association, and that any alleged liability is derivative in nature and does not support the imposition of independent personal liability under Arizona law.

This matter arises from two related civil actions, now consolidated and amended, filed by Plaintiff against the Association and several of its representatives, including the Individual Association Defendant, and the Management Defendants to include Focus as well. The disputes relate to Plaintiff's dissatisfaction with Association governance, enforcement decisions, architectural-review procedures, and responses to her complaints

regarding alleged sanitation and nuisance conditions within common areas and near her residence.

In Amended Civil Complaint #3, Plaintiff asserts eleven (11) counts, including:

1. Breach of Contract & Breach of Governing Documents
    i. Against the Association and Focus
2. Breach of the Implied Covenant of Good Faith and Fair Dealing
    i. Against "All Contracting Defendants and Individual Participants")
3. Negligence
    i. Against all Defendants
4. Gross Negligence
    i. Against Focus, Harman Cadis, Brooke Sortor, and Anna Schultz
5. Intentional Torts
    i. Against Focus, Harman Cadis, Brooke Sortor, and Anna Schultz
6. Discrimination
    i. Against the Association and Focus
7. Retaliation
    i. Against all Defendants
8. Vicarious Liability / Respondeat Superior
    i. Against the Association
9. Negligence
    i. Against Harman Cadis, Brooke Sortor, and Anna Schultz
10. Gross Negligence
    i. Against Harman Cadis, Brooke Sortor, and Anna Schultz
11. Intentional Torts
    i. Against Harman Cadis, Brooke Sortor, and Anna Schultz

See Am. Compl., Counts I-XI, pp. 1-19.

Plaintiff is a homeowner in the Gardens Gilbert residential community located in Gilbert, Arizona. Beginning in late 2023, she asserted that the HOA had failed to maintain the community's common areas to the "high standards" set forth in the CC&Rs. Original Compl. at ¶¶ 3-4. She alleged that this neglect led to persistent cleanliness and sanitation problems within the community, including the buildup of pet waste, unpleasant odors, and

overgrown vegetation, which she claimed created health issues and safety concerns for herself and her family. *Id.* at ¶¶ 7-8.

She further alleges that Defendants obstructed architectural approvals relating to documented toxic mold and water intrusion at her residence. Am. Compl. at ¶ 3(d); ¶¶ 41-42; ¶¶ 47-48. Plaintiff also alleges that Defendants withheld meeting agendas, minutes, and financial records and restricted her access to HOA systems and meetings. *Id.* at ¶¶ 3(c), 27. In addition, Plaintiff asserts that Defendants engaged in retaliatory conduct after she reported safety concerns and requested records. *Id.* at ¶¶ 26-28. The Amended Complaint further alleges that certain Defendants made misrepresentations to law enforcement during a police incident arising from Plaintiff's request for an architectural application form. *Id.* at ¶¶ 41-43.

Defendants deny all allegations of wrongdoing. Defendants assert that they have complied with all statutory and contractual obligations and that all maintenance and enforcement actions were conducted in accordance with the CC&Rs and relevant Arizona law. Defendants maintain that Plaintiff's claims arise from disagreement with management's reasonable and legal decisions rather than any breach of duty or discriminatory conduct. Further factual and legal bases for the Defendants' claims and defenses will be detailed in subsequent sections of this Disclosure Statement.

///

///

(2) LEGAL THEORIES FOR DEFENSES - RULE 26.1(a)(2).

A. Count I – Breach of Contract & Breach of Governing Documents – Against the Association and Focus

1. Count I fails toward Focus as a matter of law.

Count I must be dismissed as to Focus pursuant to both the Court of Appeals' August 12, 2025 Memorandum Decision and this Court's February 3, 2026 ruling limiting the scope of permissible claims on remand.

The Court of Appeals affirmed dismissal of Plaintiff's contract-based claims against the non-Association defendants. Specifically, the appellate court affirmed dismissal of breach-of-contract and related contract-based theories as to Focus and the individual agents.

The Trial Court's ruling permitted amendment subject to the condition that only tort claims may be stated against agents and management entities, and, thus, reaffirmed that contract-based claims do not and cannot exist against Focus.

Furthermore, Focus is not a contracting party to the CC&Rs. The CC&Rs constitute a contract between the Association and its members. *See Horton v. Mitchell*, 200 Ariz. 523, 525, ¶ 8, 29 P.3d 870, 872 (App. 2001); (quoting *Ariz. Biltmore Estates Ass'n v. Tezak*, 177 Ariz. 447, 448, 868 P.2d 1030, 1031 (App. 1993)). Focus serves solely as a management agent retained by the Association. As a matter of law, an agent acting within the scope of its authority is not independently liable for breach of a contract to which it is not a party.

Accordingly: (1) the Court of Appeals affirmed dismissal of contract-based claims

against Focus; (2) this Court limited amendment to tort claims against agents; and (3) Focus is not in contractual privity under the CC&Rs.

For these reasons, Count I is procedurally barred and substantively deficient as to Focus and must be dismissed.

2. Count I fails toward the Association as a matter of law.

As a matter of fundamental Arizona law, a plaintiff claiming breach of contract must prove (1) there was a contract with the defendant, (2) defendant breached the contract and (3) defendant's breach resulted in damages to the plaintiff. *Graham v. Asbury*, 112 Ariz. 184, 185, 540 P.2d 656, 657 (1975). Here, Plaintiff's breach of contract claim fails because it is not based on any actual breach of the governing contract (i.e., the CC&Rs), but instead on Plaintiff's subjective belief that they are entitled to relief not supported by the CC&Rs' express terms.

Under Arizona law, recorded deed restrictions constitute "a contract between the subdivision's property owners as a whole and the individual lot owners." *Horton v. Mitchell*, 200 Ariz. 523, 525, ¶8, 29 P.3d 870, 872 (App. 2001) (quoting *Ariz. Biltmore Estates Ass'n v. Tezak*, 177 Ariz. 447, 448, 868 P.2d 1030, 1031 (App. 1993). The CC&Rs, thus, both govern the parties' relationship with each other and are interpreted and enforced according to ordinary principles of contract law. The Court will not read into the contract a right of action where none is expressly provided.

The primary goal in interpreting the language of a contract is to ascertain and give effect to the intent of the parties. *Taylor v. State Farm Mut. Auto. Inc. Co.*, 175 Ariz. 148,

152, 854 P.2d 1134, 1138 (1993). In interpreting a contract, the court must give all its terms meaning and render none superfluous. *Id.*, 175 Ariz. at 158, n. 9, 854 P.2d at 1144. Where parties bind themselves by a lawful contract, the terms of which are clear and unambiguous, a court must give effect to the contract as written. *Grubb & Ellis Management Services, Inc. v. 407417 B.C., L.L.C.*, 213 Ariz. 83, 87, ¶12, 138 P.3d 1210, 1213 (App. 2006). Parol evidence will not be admissible if the contract contains an integration clause. *Pinnacle Peak Developers v. TWR Inc. Corp.*, 129 Ariz. 385, 389, 631 P.2d 540, 544 (App. 1980); *see also*, 3 Arthur L. Corbin, Corbin on Contracts, §578 (3d ed. 1960) ("If a written document ... declares in express terms that ... there are no antecedent or extrinsic representations, warranties, or collateral provisions ... this declaration is conclusive .... It is just like a general release of all antecedent claims").

Plaintiffs allege that the Association breached the CC&Rs by failing to properly maintain community common areas. This claim lacks merit because the governing documents do not impose an absolute duty of perfection in maintaining common property. Rather, they grant the Board of Directors broad discretion to manage, repair, and maintain the Association's property "consistent with sound community standards and within budgetary constraints."

a. The Association properly exercised its reasonable discretion in maintaining the community's common areas under the CC&Rs.

Homeowners associations' maintenance decisions are protected by the business judgment rule, provided such decisions are made in good faith and within the scope of

their authority. Thus, a plaintiff must establish that the Association's conduct was arbitrary, capricious, or undertaken in bad faith, and mere disagreement with the adequacy, timing, or aesthetic outcome of maintenance efforts does not constitute a breach of contract.

Here, the Association's actions demonstrate compliance with its contractual duties. The record will show that the Association consistently addressed maintenance concerns through regular landscaping and repair services, debris removal efforts, and coordination with third-party contractors. While Plaintiffs cite unspecified isolated conditions, such as damaged signage, overgrown bushes, pet waste, and debris, as evidence of neglect, these allegations reflect dissatisfaction rather than breach.

There is no evidence that the Board acted in bad faith, ignored its duties, or violated any explicit maintenance provision. The Association's engagement with contractors, responses to homeowner reports, and ongoing upkeep efforts satisfy the standard of reasonableness required under Arizona law.

Because Plaintiffs have failed to identify any specific any measurable damages directly caused by the Association's conduct, this portion of the breach of contract claim fails as a matter of law. The Association's maintenance practices conform with both the CC&Rs and Arizona precedent, warranting dismissal of Plaintiff's claim.

b. The Association fully satisfied its obligations to provide financial records under A.R.S. § 33-1805 and Section 8.17 of the CC&Rs.

Plaintiffs further allege that the Association breached the CC&Rs by refusing to

provide certain financial documents and accounting records. This claim also fails because the Association fulfilled its obligations under both the CC&Rs and A.R.S. § 33-1805, which governs the disclosure of records by homeowners associations.

Under A.R.S. § 33-1805(A), an association is required to make financial and other official records "reasonably available for examination" by a member or their designated representative. Similarly, Section 8.17 of the CC&Rs mandates that the Association maintain "true and correct records of account" and make those records accessible for inspection upon proper request. Neither the statute nor the CC&Rs requires the Association to create new documents, detailed reports, or itemized analyses that do not already exist.

The evidence shows that the Association complied with these requirements. It timely responded to Plaintiff's written requests, provided available documents, and explained when certain historical or itemized records were not maintained. The Association's communications clearly indicated that specific financial breakdowns or meeting minutes requested by Plaintiffs did not exist, consistent with its record-keeping obligations and statutory authority.

Arizona courts have repeatedly held that compliance with statutory disclosure requirements satisfies an association's contractual duties. Plaintiff's subjective dissatisfaction with the format or scope of the records provided does not constitute a breach. See *Grubb & Ellis Mgmt. Servs., Inc.*, 213 Ariz. at 87 ¶12, 138 p.2d at 1213 (court must enforce contract as written and cannot impose obligations not found in its express

terms).

Moreover, Plaintiffs have not demonstrated any resulting damages. Even if certain records were delayed or unavailable, there is no evidence that the alleged nondisclosure caused a quantifiable financial loss. Without proof of both a contractual breach and resulting damages, Plaintiff's claim fails under *Graham*, 112 at 185, 540 at 657.

Accordingly, the Association has fully complied with its statutory and contractual obligations under A.R.S. § 33-1805 and Section 8.17 of the CC&Rs. Plaintiff's breach of contract claim based on the alleged withholding of financial documents must therefore be dismissed as a matter of law.

Furthermore, Plaintiff's allegation that Defendants "obstructed architectural approvals" likewise fails to identify any specific CC&R provision mandating immediate approval or guaranteeing a particular outcome. Architectural review provisions grant the Board discretionary authority to evaluate and approve submissions. Disagreement with the timing or outcome of that process does not constitute breach absent a violation of an express contractual requirement.

Lastly, Plaintiff further alleges that Defendants breached the governing documents by misrepresenting governance authority in judicial proceedings. The CC&Rs do not regulate statements made in litigation, nor do they create a contractual cause of action for alleged mischaracterizations in pleadings. Plaintiff identifies no specific contractual provision governing litigation conduct. This allegation therefore fails to state a cognizable breach of contract.

B. Count II – Breach of the Implied Covenant of Good Faith and Fair Dealing – Against all Defendants

1. Count II fails toward the Association as a matter of law.

"Implied in every contract is a covenant of good faith and fair dealing, which requires each contracting party to refrain from acting in a manner that would impair the right of the other to receive the benefits of their agreement." *FL Receivables Trust 2002-A v. Ariz. Mills, L.L.C.*, 230 Ariz. 160, 169, ¶41, 281 P.3d 1028, 1037 (App. 2012).

As to Plaintiff's claim that the Association breached the implied covenant of good faith and fair dealing, "[t]he covenant requires that neither party 'act to impair the right of the other to receive the benefits which flow from their agreement or contractual relationship.'" *Keg Rests. Ariz., Inc. v. Jones*, 240 Ariz. 64, 77, ¶45, 375 P.3d 1173, 1187 (App. 2016) (quoting *Beaudry v. Ins. Co. of the West*, 203 Ariz. 86, 91, ¶18, 50 P.3d 836, 841 (App. 2002)); *see also*, *Rawlings v. Apodaca*, 151 Ariz. 149, 153, 726 P.2d 565, 569 (1986) (Each party to a contract has a duty not "to impair the right of the other [party] to receive the benefits which flow from the... agreement or contractual relationship.").

A party breaches the implied covenant of good faith and fair dealing when one party exercises discretion retained or not foreclosed under a contract in such a way as to deny the other a reasonably expected benefit of the bargain. *Sw. Sav. & Loan Ass'n v. SunAmp Sys., Inc.*, 172 Ariz. 553, 558-59, 838 P.2d 1314, 1319-20 (App. 1992). Though "our supreme court has warned that in determining contract rights, courts are not constrained by textual omissions to abandon common sense and experience or to ignore the surrounding circumstances of an agreement." *Id.*, 172 Ariz. at 560, 838 P.2d at 1321.

The court may make equitable considerations to determine whether the contract has been breached, including: "the parties' relative hardships, the parties' misconduct, public interest, and adequacy of other remedies." *Swain v. Bixby Vill. Golf Course Inc.*, 247 Ariz. 405, 413, ¶33, 450 P.3d 270, 278 (App. 2019) (citing *Flying Diamond Airpark, LLC v. Meienberg*, 215 Ariz. 44, 47, ¶10, 156 P.3d 1149, 1152 (App. 2007)).

There is no dispute that Arizona "...law implies a covenant of good faith and fair dealing in every contract." *Rawlings*, 151 Ariz. at 153, 726 P.2d at 569. In determining what benefits were expected to flow from the relationship, "the relevant inquiry always will focus on the contract itself, to determine what the parties did agree to." *Rawlings*, 151 Ariz. at 154, 726 P.2d at 570 (quoting *Wagenseller v. Scottsdale Mem'l Hosp.*, 147 Ariz. 370, 385, 710 P.2d 1025, 1040 (1985)). Though "[t]he 'implied covenant of good faith and fair dealing is limited to assuring compliance with the express terms of the contract and cannot be extended to create obligations not contemplated by the contract.'" *Mazed v. JP Morgan Chase Bank, N.A.*, No. SACV 11-814-JLS ANX, 2014 WL 1364929, at *14 (C.D. Cal. Apr. 7, 2014) (citing *Pasadena Live, LLC v. City of Pasadena*, 114 Cal. App. 4th 1089, 1094 (2004)). "The implied covenant will not apply where 'no express term exists on which to hinge an implied duty, and where there has been compliance with the contract's express terms." *Berger v. Home Depot U.S.A., Inc.*, 476 F. Supp. 2d 1174, 1177 (C.D. Cal. 2006) (internal citation omitted).

Plaintiff broadly asserts that the Association breached the CC&Rs by failing to maintain the common areas, generally alleging issues related to trash, debris, landscaping,

and general cleanliness, and by failing to take action in response to a resident-initiated community petition. However, Plaintiff does not identify any CC&R provision that requires the Association to act on such a petition, nor does she cite a specific contractual maintenance standard that the Association failed to perform. The CC&Rs grant the Association broad discretion regarding the timing, method, and prioritization of common-area maintenance, and nothing in the governing documents creates an individualized right for a single member to compel particular maintenance actions or impose her preferred standards on the Association.

Plaintiff's allegations therefore amount to disagreement with how the Board exercised its discretionary authority, not a breach of any defined contractual obligation. Without an identifiable failure to perform a specific maintenance duty required by the CC&Rs, Plaintiff cannot establish a contractual breach.

Whether a party has breached the covenant of good faith and fair dealing is a question of fact. *Wells Fargo Bank v. Ariz. Laborers Local No. 395 Pension Trust Fund*, 201 Ariz. 474, 493, ¶¶ 69-70, 38 P.3d 12, 31 (2002). As such, a breach of the implied covenant of good faith and fair dealing "may provide the basis for imposing damages." *Id.*, 201 Ariz. at 491, ¶60, 38 P.3d at 29. Yet, simply alleging that a contract exists does not impose, by operation of law, a legal duty of good faith and fair dealing. *Plastino v. Wells Fargo Bank*, 873 F. Supp. 2d 1179, 1191 (N.D. Cal. 2012) (In order to prevail, a plaintiff must "identify the specific contractual provision that was frustrated."). Thus, Plaintiff's broad accusation and claim here is wholly deficient.

Moreover, being parties to a contract is not a special relationship. Under Arizona law, a "special relationship" between the contracting parties is required for an actionable claim in tort for breach of the implied covenant of good faith and fair dealing. *See McAlister v. Citibank*, 171 Ariz. 207, 213, 829 P.2d 1253, 1259 (App. 1992). A "special relationship" is specifically "characterized either by a fiduciary relationship, elements of public interest (e.g., unequal bargaining positions), or adhesion. *Id.*, 171 Ariz. at 213, 829 P.2d at 1259 (citing *Rawlings*, 151 Ariz. at 158, 726 P.2d at 574). To maintain this claim, Plaintiff has the burden to show "that the contract between the parties established one of the special relationships described above." *McAlister*, 171 Ariz. at 213, 829 P.2d at 1259. Plaintiff's claim equally fails to offer allegations sufficient to establish a special relationship between Plaintiff and the Association or any representative agent of the same, beyond the contract (the CC&Rs). Beyond mere allegations, there are no facts to be discovered in this case that could support a finding that any special relationship beyond the contract exists.

Furthermore, as a matter of Arizona law, there is no fiduciary duty owed by the Association to Plaintiff. *See Rohde v. Beztak of Arizona, Inc.*, 164 Ariz. 383, 793 P.2d 140 (App. 1990) (homeowner association owes no such legal duty to a member of the association under common law or statute). Moreover, there is no element of "public interest" regarding the contractual relationship with the Association, and nothing in Arizona law elevates the status of one who purchases a deed restricted property as anything more than a party to a contract. *See Ahwatukee Custom Estates Mgmt. Ass'n v.*

Turner, 196 Ariz. 631, 634, 2 P.3d 1276, 1279 (App. 2000) ("A declaration of covenants, conditions, and restrictions is a contract between a subdivision's owners collectively and the individual lot owners."). Moreover, because they are a matter of record, CC&Rs are "presumed to be reasonable," and treated no differently than any other ordinary (not special) contractual relationship.

Without any special relationship, Plaintiff has no actionable claim for breach of the implied duty of good faith and fair dealing. Because no other duty exists, Plaintiff's separate claims based in tort are deficient as a matter of law. *See McAlister*, 171 Ariz. at 213, 829 P.2d at 1253 ("Even assuming McAlister's allegations to be true, the trial court correctly dismissed McAlister's tort claim for breach of the implied covenant of good faith and fair dealing because there is no special relationship between the parties.").

The crux of Plaintiff's dispute centers on her dissatisfaction with how the Association exercised its discretionary authority under the CC&Rs, specifically relating to community maintenance and the handling of her financial-records requests. Nothing in the governing documents grants Plaintiff an individualized right to dictate the timing, scope, or method of common-area maintenance, nor do the CC&Rs obligate the Association to act on a homeowner-circulated petition or adopt the maintenance standards preferred by Plaintiff. The Board is vested with broad discretion to determine how to allocate resources, schedule work, and prioritize community-wide maintenance efforts for the benefit of the community as a whole.

Likewise, Plaintiff has not identified any CC&R provision requiring the

Association to produce records that do not exist, to create new financial summaries or breakdowns, or to provide documents beyond what is required under A.R.S. § 33-1805(A) and Section 8.17 of the CC&Rs. The undisputed facts show that the Association responded to Plaintiff's requests, provided the existing records it maintained, and explained when certain historical or itemized materials were not part of its financial files.

Although Plaintiff broadly alleges that she has suffered damages and will continue to do so, such generalized assertions do not satisfy the requirements for a claim based on breach of contract or breach of the implied covenant of good faith and fair dealing. Plaintiff has not disclosed or identified any evidence showing that the Association's exercise of its contractual discretion regarding maintenance or record-keeping resulted in a measurable financial loss, impairment of a defined contractual benefit, or any cognizable damages under Arizona law. Dissatisfaction with discretionary decisions, such as the level of cleanliness, landscaping, or the format of existing financial records, does not constitute contractual harm.

Because Plaintiff has not shown that the Association's actions deprived her of any express contractual benefit or caused any compensable injury, these allegations cannot support a claim for breach of contract or breach of the implied covenant. Contract remedies are designed to redress the plaintiff's "loss of the benefit of the bargain." *Arrow Leasing Corp. v. Cummins Ariz. Diesel, Inc.*, 136 Ariz. 444, 447 (App. 1983). Accordingly, "one of the principal goals of remedying a breach of contract" is to "[e]nforc[e] the expectation interests of the parties." *John Munic Enters, Inc. v. Laos*, 235

Ariz. 12, 18, ¶18 (App. 2014) (citing Restatement (Second) of Contracts § 344(a); § 347 cmt. a). Expectation damages, therefore, are "intended to put the injured party 'to the extent possible . . . in as good a position as he would have been in had the contract been performed.'" *Ramsey v. Ariz. Registrar Contractors*, 241 Ariz. 102, 107, ¶12 (App. 2016) (quoting 2nd Restatement of Contracts § 347 cmt. a).

However, in doing so, the court must adhere to "the maxim that a party should not profit more from breach of a contract than its full performance." *John Munic Enters, Inc.*, 235 Ariz. at 18, ¶19 (citing id. § 347 cmt. e). Therefore, "[t]he calculation of expectation damages necessarily includes a deduction for 'any cost or other loss that [the injured party] has avoided by not having to perform.'" *Ramsey*, supra (quoting Id. § 347(c)); *see also*, 11 Joseph M. Perillo, Corbin on Contracts § 55.3 (rev. ed. 2005) ("[I]t is a basic tenet of contract law that the aggrieved party will not be placed in a better position than it would have occupied had the contract been fully performed."). Even assuming, arguendo, that Plaintiffs could establish a sum-certain damage or quantifiable interference with their use of Lot 6 or adjacent areas, Plaintiffs nonetheless err in seeking to be placed, both literally and legally, in a better position than what is afforded under the Governing Documents.

Contrary to Plaintiff's assertions, the relief they seek goes beyond a mere declaration of their contractual rights under the CC&Rs. Plaintiffs effectively ask the Court to grant them individualized treatment that would alter the shared rights, obligations, and common expense responsibilities of all members within the Association. In essence, allowing Plaintiffs to prevail under these claims would rewrite the CC&Rs to

create benefits not contemplated or agreed upon by the community as a whole. Moreover, because every member holds an equal interest in the enforcement and administration of the governing documents, granting the relief requested would directly impact the rights of all unit owners, none of whom are parties to this action. Such relief would be inconsistent with long-standing principles of contract law and equity, which do not permit courts to modify governing covenants to favor one member at the expense of the collective agreement.

Further, Plaintiff also alleges that Defendants exercised architectural-review authority in bad faith. Section 4.01(c) of the CC&Rs grant the Association discretionary authority over architectural submissions and approval processes. Nothing in the governing documents guarantees immediate approval, mandates a particular outcome, or creates an individualized contractual entitlement to expedited remediation procedures. Disagreement with how architectural discretion is exercised does not constitute deprivation of a defined contractual benefit.

Additionally, Plaintiff's assertion that she was deprived of the "reasonably expected benefits of Association membership and homeownership" is legally insufficient. The implied covenant protects only those benefits expressly or impliedly arising from the contract itself. *Rawlings*, 151 Ariz. at 154. It does not extend to generalized expectations associated with property ownership or dissatisfaction with governance decisions. Plaintiff identifies no express contractual provision guaranteeing the broad and undefined benefits she claims were impaired.

In seeking such relief, Plaintiff fails to fully understand that the CC&Rs are not only a contract between the Association and Plaintiff, but also between the Association and each individual owner/member within the community. Because of this, the requested relief is limited in practicality.

2. Count II fails toward the Individual Association Defendant and Management Defendants, including Focus, as a matter of law.

Count II must be dismissed as to the Individual Association Defendant and Management Defendants, including Focus, because the Arizona Court of Appeals expressly affirmed dismissal of Plaintiff's contract-based claims against the non-Association defendants. Consistent with that ruling, this Court's February 3, 2026 Order permitting amendment expressly limited Plaintiff to asserting tort claims against the agents of the Association and/or Focus.

A claim for breach of the implied covenant of good faith and fair dealing is a contract-based claim. The covenant arises solely from the existence of a contract and binds only contracting parties. *Rawlings*, 151 Ariz. at 153, 726 P.2d at 569. It does not create an independent duty separate from the underlying contract. Because the Individual Association Defendant and Management Defendants, including Focus, are agents acting on behalf of the Association and are not contracting parties to the CC&Rs in their individual capacities, Count II is procedurally barred as to them under both the Court of Appeals' decision and this Court's February 3 ruling.

Accordingly, Count II must be dismissed as to the Individual Association Defendant and Management Defendants, including Focus.

C. Count III – Negligence – Against all Defendants – Fails as a Matter of Law.

Under Arizona law, negligence requires proof of (1) a duty owed to the plaintiff, (2) a breach of that duty, (3) causation, and (4) damages. *Hutto v. Francisco*, 210 Ariz. 88, 91 ¶ 15, 107 P.3d 934, 938 (App. 2005). Plaintiff alleges that Defendants owed her a duty of reasonable care arising from control over Association common areas, enforcement authority, and statutory obligations under A.R.S. Title 33. Am. Compl. ¶ 7. She further alleges breach based on alleged sanitation hazards, trespass and unleashed animals, and generalized "health and safety risks." *Id.* ¶ 7(a)(i)-(iii).

As to the Association, the CC&Rs expressly define the scope of the Association's fiduciary and maintenance obligations, while affording the Board discretion to determine the timing, method, and extent of those functions in the best interests of the community. Article VI, Section 6.01 provides that the Association "shall be responsible for the maintenance and repair of the Common Areas and all other Areas of Association Responsibility," and that the Board "shall endeavor to use a high standard of care in providing any maintenance, management, and repair, so that the Project will reflect a high pride of ownership." This language imposes a duty of reasonable maintenance but simultaneously grants the Board broad discretion in how and when to perform such maintenance. Article VI establishes that the Association's maintenance decisions are to be guided by reasonableness, prudence, and the collective interests of its members, not by

any individual owner's preferences or subjective standards.

The undisputed facts demonstrate that the Association complied with its obligations. The Association undertook community maintenance and landscaping activities at regular intervals, including periodic trash removal, enforcement of nuisance restrictions, and inspections of common areas. The Association's conduct was performed in good faith and within its discretionary authority to manage the community for the collective benefit of all owners.

Plaintiff's allegations regarding lack of community upkeep do not establish a breach of any independent legal duty outside of the Association's contractual obligations under the CC&Rs. While Plaintiff may disagree with the adequacy or frequency of the Association's maintenance or disclosure practices, such disagreements amount at most to a dispute over the exercise of contractual discretion, not actionable negligence.

As to Individual Association Defendant and Management Defendants, including Focus, Plaintiff similarly fails to establish the existence of an independent duty. Their roles and authority derive from the Association and the governing documents. Plaintiff does not allege that any of these Defendants personally created a dangerous condition, exercised exclusive physical control over the common areas in an individual capacity, or engaged in conduct outside the scope of their agency roles that would give rise to a separate tort duty owed directly to Plaintiff. Allegations concerning "enforcement authority" and "control" relate to governance and administrative functions performed on behalf of the Association pursuant to the CC&Rs. This Court previously dismissed

Plaintiff's breach of contract claims against the non-Association Defendants, and the Arizona Court of Appeals affirmed that dismissal. Those rulings confirm that the Individual Association Defendant and Management Defendant, including Focus, do not owe independent contractual obligations to Plaintiff in their individual capacities. Because their alleged duties arise, if at all, only from the contractual framework of the CC&Rs, and because contract-based claims against them have already been dismissed, Plaintiff cannot establish the existence of a separate tort duty as a matter of law.

Arizona law does not impose personal negligence liability upon corporate officers, directors, or managing agents for discretionary decisions undertaken within the scope of their authority absent personal participation in tortious conduct creating an independent legal duty.

While Plaintiff alleges that she submitted notice to the Association regarding the general cleanliness and upkeep of the community,[1] those communications do not establish that Defendants were aware of, and failed to address, any condition requiring additional or immediate action. Rather, they demonstrate that Defendants received and reviewed Plaintiff's correspondence, responded through its established procedures, and took reasonable steps consistent with its discretion under the CC&Rs. There is no evidence that Defendants ignored a known deficiency or acted outside the bounds of its contractual authority or fiduciary obligations.

Defendants further assert the affirmative defenses of contributory negligence and

[1] *See* Am. Compl., A, ¶ 3-5, 11, ¶ 7(a).

comparative fault. Plaintiff may have failed to take reasonable steps to mitigate their alleged damages or contributed to the conditions of which they now complain. Under A.R.S. § 12-2506, the trier of fact must consider the fault of all persons or entities who contributed to the alleged injury or property damage, regardless of whether they are parties to this action.

Additionally, the negligence claim is barred by the economic loss doctrine. Plaintiff seeks recovery for purely economic damages, repair costs and alleged diminution in property value, arising from the same facts as their contract claim. Under *Flagstaff Affordable Housing Ltd. P'ship v. Design Alliance, Inc.*, such damages are recoverable, if at all, under contract law, not tort. 223 Ariz. 320, 327 ¶ 33, 223 P.3d 664, 671 (2010); *see also Hughes Custom Bldg, L.L.C. v. Davey*, 212 P.3d 865, ¶ 9 (App. 2009) ("[t]he economic loss doctrine precludes a party from recovering in tort if the party has suffered only an economic loss and, therefore, should pursue its remedy in contract instead of in tort."); *see also Wells Fargo Bank v. Arizona Laborers*, 201 Ariz. 474, 491, 38 P.3d 12, 29 (2002) (when the claim sounds in contract as opposed to tort, the claim "is an action for breach claiming contract damages").[2] Plaintiffs have not alleged or disclosed any personal injury or property damage independent of the asserted contractual obligations that would support a stand-alone negligence claim.

[2] Again, this very Maricopa County Superior Court dismissed Plaintiff's breach of contract claims on April 10, 2024, the Arizona Court of Appeals affirmed that dismissal on August 12, 2025, and this Court further affirmed that dismissal in their February 3, 2026 ruling. Those rulings confirm that the non-Association Defendants conduct does not give rise to any independent contractual breach under Arizona law.

For these reasons, Plaintiffs cannot prove duty, breach, causation, and damages as required for a negligence cause of action, and Plaintiff's first claim for relief fails as a matter of law.

D. Count IV - Gross Negligence - Against Individual Association Defendant and Management Defendants, Including Focus - Fails as a Matter of Law.

To properly plead a gross negligence claim, a plaintiff must establish that the defendant owed a duty to the plaintiff to conform to a particular standard of conduct to protect against unreasonable risks of harm. *Gipson v. Kasey*, 214 Ariz. 141, 143 ¶¶ 9-10 (2007). "Duty is defined as an 'obligation, recognized by law, which requires the defendant to conform to a particular standard of conduct in order to protect others against unreasonable risks of harm.'" *Id.* ¶ 10 (quoting *Markowitz v. Ariz. Parks Bd.*, 146 Ariz. 352, 354 (1985)). A duty of care "may arise from special relationships based on contract, family relations, or conduct undertaken by the defendant," or from "public policy considerations." *Gipson*, 214 Ariz. at 145 ¶¶ 18, 23.

A defendant's conduct may create a special relationship giving rise to a duty. *Hogue v. City of Phoenix*, 378 P.3d 720, 723 ¶ 12 (App. 2016). Such a relationship imposes a duty to avoid harm from "risks created by the individual at risk as well as those created by a third party's conduct." *Nunez v. Prof'l Transit Mgmt. of Tucson, Inc.*, 229 Ariz. 117, 121 ¶ 17 (2012) (quoting Restatement (Third) of Torts: Liability for Physical Harm § 40 cmt. g). However, Arizona courts have made clear that "one [does not] owe[] a duty of reasonable care at all times to all people under all circumstances." *Hafner v.*

Beck, 185 Ariz. 389, 391 (App. 1996). Thus, in general, there is no duty to protect others from harm absent a recognized legal relationship. *Id.*

Here, Plaintiff alleges that Defendants acted with reckless indifference and conscious disregard for her safety and rights by failing to address sanitation concerns and enforcement matters. Am. Compl. ¶ 11. However, as to the Association, any obligation regarding maintenance of common areas arises solely from the contractual relationship established by the CC&Rs, not from an independent legal duty imposed by tort law. Arizona courts have expressly held that neither a homeowners association nor its board members owe a special or fiduciary duty to an individual homeowner. *Rohde v. Beztak of Ariz., Inc.*, 164 Ariz. 383, 386 (App. 1990); *Ariz. Biltmore Estates Ass'n v. Tezak*, 177 Ariz. 447, 448 (App. 1993). Duties between these parties arise from contract, and a breach of such duties does not create tort liability absent an independent legal duty recognized by law. *Flagstaff Affordable Hous. Ltd. P'ship v. Design Alliance, Inc.*, 223 Ariz. 320, 325 ¶ 26 (2010).

The CC&Rs here define the Association's duties regarding maintenance, finances, and community operations, while granting the Board discretion to determine the timing, method, and extent of such actions. Article VI, Section 6.01 provides that the Association "shall be responsible for the maintenance and repair of the Common Areas and all other Areas of Association Responsibility," and that the Board "shall endeavor to use a high standard of care in providing any maintenance, management, and repair, so that the Project will reflect a high pride of ownership." This language imposes a duty of reasonable care,

not an absolute or strict obligation, and expressly vests discretion in the Board to determine the scope of its actions.

As to the Individual Association Defendant and Management Defendants, including Focus, Plaintiff likewise fails to establish the existence of any independent duty. Their authority and responsibilities derive exclusively from the Association and the governing documents. Again, this very Maricopa County Superior Court dismissed Plaintiff's breach of contract claims on April 10, 2024, the Arizona Court of Appeals affirmed that dismissal on August 12, 2025, and this Court further affirmed that dismissal in their February 3, 2026 ruling. Those rulings confirm that the non-Association Defendants' conduct does not give rise to any independent contractual breach in their individual capacity under Arizona law. Because their alleged duties arise, if at all, only from the contractual framework of the CC&Rs, and because contract-based claims against them have already been dismissed, Plaintiff cannot establish the existence of a separate tort duty necessary to support a gross negligence claim. Plaintiff's gross negligence allegations merely restate her contract claims under a different label, which Arizona law does not permit. *See Aspell v. Am. Contract Bridge League of Memphis, Tenn.*, 122 Ariz. 399, 402 (App. 1979) ("[a] breach of contract is not a tort unless the law imposes a duty on the relationship created by the contract which exists apart from the contract.").

Even assuming Plaintiff's allegations to be true, they describe at most a disagreement over the exercise of contractual discretion, not conduct that rises to the level of gross negligence. Nothing alleged shows conduct that created an unreasonable risk of

bodily harm and involved "a high probability that substantial harm will result." *Walls v. Ariz. Dep't of Pub. Safety*, 170 Ariz. 591, 595 (App. 1991). Plaintiff's conclusory assertions that the Association's conduct amounted to "gross negligence" or "willful disregard" of its obligations under the CC&Rs are precisely the type of "labels and conclusions" that fail to satisfy the pleading standard set forth in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

To sufficiently allege gross negligence, Plaintiff must allege specific facts showing that Defendants knew its conduct lacked any reasonable basis or acted with reckless disregard for known risks. *Rawlings*, 151 Ariz. at 158. Plaintiff alleges no such facts. At most, she claims that Defendants failed to meet her expectations regarding community maintenance, allegations that are speculative, unsupported, and insufficient to establish gross negligence as a matter of law.

Defendants conduct falls squarely within its contractual discretion under the CC&Rs and does not constitute gross negligence under Arizona law. Accordingly, applying Arizona law to the undisputed facts and procedural history, Plaintiff's fourth claim for relief fails to state a claim upon which relief can be granted.

E. Count V - Intentional Torts - Against Individual Association Defendant and Management Defendants, including Focus - Fails as a Matter of Law.

To establish an intentional tort under Arizona law, a plaintiff must allege and prove that the defendant acted with the purpose of causing a particular result, or with knowledge that such a result was substantially certain to occur, not mere carelessness. *See*

Restatement (Second) of Torts § 8A (1965) (which provides that the word "intent" "denote[s] that the actor desires to cause consequences of his act, or that he believes that the consequences are substantially certain to result from it").

Intentional torts thus require a deliberate act undertaken with the objective of causing harm or with knowledge that harm is substantially certain to result. *See Rawlings*, 151 Ariz. at 162, 726 P.2d at 578. Conclusory allegations of willful or intentional misconduct, without factual support demonstrating purposeful conduct intended to cause injury, are insufficient.

Here, Plaintiff appears to allege that the Individual Association Defendant and Management Defendants, including Focus, "intentionally and willfully engaged in wrongful conduct," including alleged abuse of process, intentional interference with her use and enjoyment of property, obstruction of statutory rights, and civil conspiracy. Am. Compl. pp. 7-9. However, even assuming those allegations as true, they fail to meet the requisite showing of intent. The conduct described consists of enforcement communications, responses to complaints, architectural or governance decisions, records administration, and alleged coordination among HOA representatives. *Id.* These are governance and management functions undertaken pursuant to the authority delegated under the CC&Rs and management agreements.

There are no non-conclusory factual allegations demonstrating that the Individual Association Defendant and Management Defendants, including Focus, acted with a deliberate purpose to cause harm to Plaintiff, or with knowledge that harm was

substantially certain to result. Plaintiff's characterization of enforcement letters, meeting procedures, records responses, or alleged "escalation" as intentional misconduct does not transform routine administrative or governance actions into intentional torts. Dissatisfaction with enforcement decisions or records administration does not establish the mental state required under Restatement § 8A.

Moreover, this Court previously dismissed Plaintiff's breach of contract claims against the non-Association Defendants, and the Arizona Court of Appeals and this Trial court then affirmed that dismissal. Those rulings confirm that the Individual Association Defendant and Management Defendants, including Focus, do not owe independent contractual duties to Plaintiff in their individual capacities. The duties Plaintiff references arise solely from the CC&Rs, which constitute a contract between the Association and its members. *See Horton v. Mitchell*, 200 Ariz. 523, 525, ¶ 8, 29 P.3d 870, 872 (App. 2001). Arizona law does not permit a plaintiff to repackage alleged contractual disagreements as intentional torts in order to impose personal liability on agents acting within the scope of their authority. *See Flagstaff Affordable Hous. Ltd. P'ship v. Design Alliance, Inc.*, 223 Ariz. 320, 325 ¶ 26, 223 P.3d 664, 669 (2010) (a breach of contract is not a tort unless the law imposes a duty created by the relationship apart from the contract itself).

Plaintiff's allegations of "abuse of process" likewise fail because she does not identify the misuse of a specific judicial process for an ulterior purpose, but instead references enforcement letters, communications, and alleged third-party involvement, conduct that does not constitute use of legal process as required under Arizona law.

Similarly, her claim of "intentional interference" is unsupported by factual allegations showing that the Individual Association Defendant and Management Defendants, including Focus, intentionally and improperly interfered with a legally protected interest independent of the contractual relationship created by the CC&Rs.

Her conspiracy allegations also fail as a matter of law. Civil conspiracy is not an independent tort; it requires an underlying tort and an agreement to accomplish an unlawful objective. Allegations of "coordinated conduct," "joint decision-making," or "ratification" among HOA representatives do not establish an unlawful objective or overt act independent of the governance functions authorized by the CC&Rs. Without a viable underlying tort supported by facts demonstrating intentional misconduct, the conspiracy claim necessarily fails.

Plaintiff's repeated use of terms such as "willful," "intentional," "retaliatory," and "improper purpose" constitutes precisely the type of "labels and conclusions" rejected in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). She alleges no specific facts showing that the Individual Association Defendant and Management Defendants, including Focus, acted with an "evil mind" or with knowledge that their conduct was substantially certain to cause unjustified, significant harm as required under Rawlings.

Because Plaintiff has failed to allege facts demonstrating purposeful conduct intended to cause injury, or conduct undertaken with knowledge that harm was substantially certain to occur, and because the alleged conduct arises solely from discretionary governance actions within the scope of authority granted by the CC&Rs,

Count V fails to state a claim upon which relief can be granted as to the Individual Association Defendant and Management Defendants, including Focus.

F. Count VI – Discrimination - Against the Association and Focus - Fails as a Matter of Law.

Plaintiff's discrimination claim fails both procedurally and substantively as to Focus and the Association.

As an initial matter, this Court's February 3 ruling expressly limited the claims that may proceed against Focus. The Court ruled that "[o]nly tort claims may be stated against ... the Management Company [Focus]," and "the Court of Appeals affirmed that contract-based and First Amendment claims do not and cannot exist against ... the Management Company [Focus]." Accordingly, Focus, as the Management Company, may only be subject to properly pleaded tort claims within the scope of that ruling.

A claim for "discrimination," as pled here, is not a recognized common-law tort under Arizona law. Arizona does not recognize a free-standing tort of "discrimination." Rather, discrimination claims arise, if at all, under specific statutory frameworks. Such claims are statutory civil rights causes of action, not traditional common-law tort claims like negligence, gross negligence, or intentional infliction of emotional distress. Because the February 3 ruling limited the claims against Focus to tort claims, Plaintiff may not proceed against Focus on a statutory discrimination theory that exceeds the scope of the remand and appellate mandate.

Even if the Court were to construe Plaintiff's discrimination claim as falling within the category of permissible tort claims, it nevertheless fails on the merits. To establish a

prima facie claim under the Fair Housing Act, a plaintiff must allege that (1) she is a member of a protected class, (2) she was subjected to adverse treatment, and (3) the adverse treatment occurred because of her protected status. Conclusory allegations of "selective enforcement" or "disparate treatment," without factual allegations tying the conduct to a protected characteristic such as race, color, religion, sex, familial status, national origin, or disability, are insufficient as a matter of law. Am. Compl. ¶ 24.

Here, Plaintiff alleges that Defendants selectively enforced rules, restricted access to records and meetings, and imposed enforcement barriers not applied to other homeowners. However, the Amended Complaint does not plausibly allege that any such actions were taken because of Plaintiff's membership in a protected class. Allegations that enforcement decisions lacked a "rational basis" or were unfair do not convert a governance dispute into unlawful discrimination. Selective enforcement, standing alone, is not discrimination unless it is motivated by unlawful animus tied to a protected characteristic.

As to the Association, while it is not subject to the same remand limitation as Focus, the discrimination claim fails for the same substantive reasons. The governing documents, the CC&Rs, constitute a contract between the Association and its members. *See Ahwatukee Custom Estates Mgmt. Ass'n v. Turner*, 196 Ariz. 631, 634, 2 P.3d 1276, 1279 (App. 2000); *Horton v. Mitchell*, 200 Ariz. 523, 525 ¶ 8, 29 P.3d 870, 872 (App. 2001). Disputes over enforcement, access to records, or management decisions arise from and are governed by that contractual framework. Absent well-pleaded facts establishing discriminatory intent or disparate impact under a recognized statutory scheme, such

disputes do not state a claim for unlawful discrimination.

Moreover, to the extent Plaintiff attempts to recharacterize prior contract-based or constitutional theories as "discrimination," such repackaging is improper. A plaintiff may not evade dismissal by relabeling governance or contract disputes as civil rights violations without alleging the essential statutory elements. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (rejecting "labels and conclusions" unsupported by factual allegations).

Because the Amended Complaint fails to allege facts establishing membership in a protected class, discriminatory intent, or a causal nexus between any alleged adverse action and protected status, Count VI fails to state a claim upon which relief can be granted. Accordingly, the discrimination claim should be dismissed as to Focus and the Association.

G. Count VII – Retaliation - Against all Defendants - Fails as a Matter of Law.

Plaintiff's retaliation claim fails both procedurally and substantively as to all Defendants.

As a threshold matter, this Court's February 3 ruling expressly limited the claims that may proceed against the agents of the Association and the Management Company. The Court held that "[o]nly tort claims may be stated against the agents of the Association or the Management Company," and "the Arizona Court of Appeals affirmed that contract-based and First Amendment claims do not and cannot exist against agents of the Association or the Management Company." Accordingly, as to the Individual Association Defendant and the Management Defendants, including Focus, any retaliation theory

sounding in contract or constitutional law is barred.

To the extent Plaintiff's retaliation claim is premised on alleged retaliation for exercising contractual rights under the CC&Rs, such as requesting records, petitioning for maintenance action, or participating in governance, such a theory arises solely from the contractual relationship between Plaintiff and the Association. Under Arizona law, duties flowing from CC&Rs arise from contract. *See Ahwatukee Custom Estates Mgmt. Ass'n v. Turner*, 196 Ariz. 631, 634, 2 P.3d 1276, 1279 (App. 2000); *Horton v. Mitchell*, 200 Ariz. 523, 525 ¶ 8, 29 P.3d 870, 872 (App. 2001). Because the Court has already held that contract-based claims cannot proceed against agents, any retaliation theory grounded in alleged contractual rights must be dismissed as to Focus and the Individual and Management Defendants.

Likewise, to the extent Plaintiff attempts to assert retaliation for "protected activity" under the First Amendment, such as speaking at meetings, petitioning authorities, or criticizing governance,[3] that theory is likewise barred as to the agents under the February 3 ruling and the Court of Appeals' affirmance. Private homeowners associations and their agents are not state actors for purposes of constitutional liability, and such claims have already been foreclosed in this matter.

The only remaining possible avenue would be a properly pleaded tort claim for retaliation. However, Arizona does not recognize a freestanding common-law tort of "retaliation" outside limited employment contexts or specific statutory schemes.

[3] Am. Compl. ¶¶ 26-27.

Retaliation claims generally arise under statutory frameworks, such as employment statutes or the Fair Housing Act, not as independent common-law torts between private contracting parties. Absent a recognized independent duty imposed by law separate from the contract, a plaintiff may not convert a governance dispute into a tort claim merely by labeling conduct as "retaliatory." *See Flagstaff Affordable Hous. Ltd. P'ship v. Design Alliance, Inc.*, 223 Ariz. 320, 325 ¶ 26, 223 P.3d 664, 669 (2010) ("A breach of contract is not a tort unless the law imposes a duty on the relationship created by the contract which exists apart from the contract."); *Aspell v. Am. Contract Bridge League of Memphis, Tenn.*, 122 Ariz. 399, 402 (App. 1979).

As to the Association, even if the retaliation claim were not procedurally barred, it fails on the merits. A retaliation claim under any cognizable statutory framework requires proof that (1) the plaintiff engaged in protected activity, (2) the defendant took adverse action, and (3) a causal connection exists between the protected activity and the adverse action. Conclusory allegations of "escalation," "access restrictions," or "legal threats," without factual allegations establishing unlawful motive or causation, are insufficient under *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Here, Plaintiff alleges that she reported safety hazards, requested records, participated in governance, and petitioned authorities,[4] and that Defendants thereafter escalated enforcement and restricted access.[5] However, enforcement of CC&R provisions,

[4] Am. Compl. ¶ 26.
[5] *Id.* at ¶ 27.

communications regarding compliance, and administration of records are actions expressly authorized under the governing documents. The CC&Rs vest the Association with discretion to enforce restrictions and manage community affairs. Disagreement with enforcement decisions does not establish retaliatory motive. Absent factual allegations demonstrating that enforcement actions were taken because of legally protected activity under a recognized statute, Plaintiff's claim amounts to a repackaged contract dispute.

Moreover, this Court previously dismissed Plaintiff's breach of contract claims, and the Arizona Court of Appeals affirmed that dismissal. Those rulings confirm that the Association's conduct did not constitute a contractual or fiduciary breach under Arizona law. Plaintiff may not relabel the same underlying conduct as "retaliation" to avoid the legal consequences of those rulings.

Because Arizona does not recognize a general tort of retaliation in this context, because contract-based and constitutional retaliation claims are barred as to the agents under the February 3 ruling, and because Plaintiff fails to allege the essential elements of any viable statutory retaliation claim, Count VII fails to state a claim upon which relief can be granted as to all Defendants.

H. <u>Count VIII – Vicarious Liability / Respondeat Superior – the Association - Fails as a Matter of Law.</u>

Count VIII does not state an independent cause of action and must be dismissed.

Under Arizona law, vicarious liability and respondeat superior are derivative doctrines, not standalone claims. Respondeat superior is a theory by which an employer or principal may be held liable for the tortious conduct of its agent acting within the scope

of employment. *See Engler v. Gulf Interstate Eng'g, Inc.*, 230 Ariz. 55, 57 ¶ 9, 280 P.3d 599, 601 (2012) (under respondeat superior, an employer is liable for the torts of its employee committed within the course and scope of employment). The doctrine does not create liability in the absence of an underlying actionable tort.

Accordingly, a claim for vicarious liability rises or falls with the viability of the underlying tort claims. If the alleged agent committed no actionable tort, there is nothing for which the principal may be held vicariously liable. *See Kopp v. Physician Group of Ariz.*, Inc., 421 P.3d 149, 151 (2018) (vicarious liability is purely derivative and depends upon the existence of tortious conduct by the agent).

Here, Plaintiff alleges that Focus, Cadis, Sortor, and Schultz acted as agents of the Association within the scope of their delegated authority,[6] and that the Association is therefore vicariously liable for their "tortious acts and omissions."[7] However, as set forth above, Plaintiff has failed to state viable claims for negligence, gross negligence, intentional torts, discrimination, or retaliation against those individuals or against Focus. Where the underlying tort claims fail as a matter of law, derivative liability necessarily fails as well.

Moreover, to the extent Plaintiff attempts to premise vicarious liability on contract-based or governance-related conduct arising from the CC&Rs, such duties arise from contract, not tort. As previously addressed, recorded CC&Rs constitute a contract between

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[6] Am. Compl. ¶ 30.
[7] *Id.* at ¶ 31.

the Association and its members. *See Ahwatukee Custom Estates Mgmt. Ass'n v. Turner*, 196 Ariz. 631, 634, 2 P.3d 1276, 1279 (App. 2000); *Horton v. Mitchell*, 200 Ariz. 523, 525 ¶ 8, 29 P.3d 870, 872 (App. 2001). A principal cannot be held vicariously liable in tort for conduct that does not independently constitute a tort. *See Flagstaff Affordable Hous. Ltd. P'ship v. Design Alliance, Inc.*, 223 Ariz. 320, 325 ¶ 26, 223 P.3d 664, 669 (2010) (a breach of contract is not a tort absent an independent legal duty).

Further, even assuming arguendo that any Individual Association Defendant acted within the scope of delegated authority, actions taken in furtherance of HOA governance, enforcement, record administration, and architectural review fall squarely within the contractual framework of the CC&Rs. Disagreement with the exercise of discretionary authority does not transform governance conduct into tortious behavior capable of supporting respondeat superior liability.

Because vicarious liability is not an independent cause of action and because Plaintiff has failed to plead a viable underlying tort, Count VIII fails as a matter of law and must be dismissed.

I. Count IX – Negligence – Against the Individual Association Defendant and Management Defendants – Fails as a Matter of Law.

Count IX is merely a repackaged and repeated version of Count III asserted against a narrower subset of overlapping Defendants. The factual predicates are materially identical. Compare Am. Compl. Ct. 3 ¶ 7 (alleging duty arising from control over HOA common areas, enforcement authority, and statutory obligations under A.R.S. Title 33,

and breach based on sanitation hazards, trespass, unleashed animals, and health and safety risks) with Am. Compl. ¶¶ 32-36 (alleging duty arising from "personal control" over enforcement, records, communications, and housing-related decisions, and breach based on the same alleged failure to address hazards, enforcement escalation, and related harms). Both counts rely on the same core theory: that Defendants failed to act reasonably in carrying out Association governance functions and that such failure caused loss of insurance, medical interruption, emotional distress, and housing instability. See Am. Compl. Ct. 3 ¶ 8 and ¶¶ 35-37. Plaintiff cannot avoid dismissal of Count III by duplicating the same negligence theory under a different count number and re-labeling the same governance disputes as "personal control."[8] Arizona law does not permit redundant tort claims premised on the same alleged duties, conduct, and damages. Because Count IX merely restates the allegations of Count III against a subset of overlapping Defendants without identifying a new independent duty, distinct breach, or separate damages theory, it fails for the same reasons set forth in Defendants' challenge to Count III.

Furthermore, under Arizona law, negligence requires proof of (1) a duty owed to the plaintiff, (2) a breach of that duty, (3) causation, and (4) damages. *Hutto v. Francisco*, 210 Ariz. 88, 90 ¶ 8, 107 P.3d 934, 936 (App. 2005). The existence of a duty is a threshold question of law for the Court. *Gipson v. Kasey*, 214 Ariz. 141, 143 ¶ 9 (2007).

Plaintiff alleges that the Individual Association Defendant and Management Defendants owed her a duty of reasonable care arising from their "personal control" over

[8] Am. Compl. ¶ 32; *see also Id.* at ¶ 7.

enforcement decisions, records access, communications with third parties, and decisions affecting Plaintiff's housing stability and insurance coverage. Am. Compl. ¶ 32. However, any authority exercised by these individuals arose solely from their roles as agents of the Association and within the framework of the CC&Rs. Recorded CC&Rs constitute a contract between the Association and its members. *Ahwatukee Custom Estates Mgmt. Ass'n v. Turner*, 196 Ariz. 631, 634, 2 P.3d 1276, 1279 (App. 2000); *Horton v. Mitchell*, 200 Ariz. 523, 525 ¶ 8, 29 P.3d 870, 872 (App. 2001).

Arizona law is clear that a breach of contract does not become a tort unless the law imposes a duty independent of the contract. *Flagstaff Affordable Hous. Ltd. P'ship v. Design Alliance, Inc.*, 223 Ariz. 320, 325 ¶ 26, 223 P.3d 664, 669 (2010); *Aspell v. Am. Contract Bridge League of Memphis, Tenn.*, 122 Ariz. 399, 402 (App. 1979). Plaintiff does not identify any independent legal duty imposed on these Individual Association Defendants apart from the contractual governance structure of the Association. Their alleged duties regarding nuisance enforcement, records access, elections, and communications exist, if at all, because of the CC&Rs and statutory provisions governing homeowners associations. They are not general duties owed to Plaintiff independent of that contractual relationship.

Moreover, Arizona courts have expressly held that neither a homeowners association nor its board members owe a special or fiduciary duty to an individual homeowner beyond the contractual relationship. *Rohde v. Beztak of Ariz., Inc.,* 164 Ariz. 383, 386 (App. 1990). Absent a recognized special relationship or independent legal duty,

there is no basis for imposing personal tort liability on board members or management personnel for actions taken within the scope of HOA governance.

To the extent Plaintiff attempts to base negligence on alleged "intentional misrepresentation, fraud, and deceptive conduct,"[9] such allegations sound in intentional tort, not negligence. Negligence requires careless conduct, not intentional acts. *See Hutto*, 210 Ariz. at 90 ¶ 8. Plaintiff cannot simultaneously characterize the same conduct as both intentional fraud and negligent conduct without pleading separate, legally cognizable duties and factual bases for each. Conclusory assertions that Defendants failed to "act reasonably and truthfully" after receiving notice of potential harm[10] do not establish the existence of a duty independent of the contractual governance framework.

Additionally, the Arizona Court of Appeals and subsequent February 3 ruling affirmation eliminated contract-based claims against these individual and management Defendants. Because their alleged authority and responsibilities derive solely from the Association's governing documents, and because those contract-based theories have already been dismissed, Plaintiff cannot now repackage the same governance disputes as personal negligence claims in tort. Arizona law does not permit a plaintiff to circumvent dismissal of contract claims by relabeling them as negligence absent an independent duty recognized by law. *Flagstaff Affordable Hous.*, 223 Ariz. at 325 ¶ 26.

Even assuming arguendo that a duty existed, Plaintiff fails to plausibly allege

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[9] Am. Compl. ¶ 34(a).
[10] *See Id.* at ¶ 33.

breach and causation. The complained-of conduct, enforcement escalation, communications with agencies, litigation positions, and decisions regarding records and meetings,[11] are actions undertaken within the scope of HOA governance and in connection with ongoing disputes. Disagreement with enforcement decisions or litigation strategy does not establish careless conduct creating an unreasonable risk of physical harm.

Plaintiff further alleges damages including loss of insurance coverage, interruption of medical care, threats to benefits, emotional distress, and housing instability.[12] However, she fails to allege facts establishing that these harms were proximately caused by negligent acts of these Individual Association Defendants rather than by independent third-party decisions, contractual disputes, or Plaintiff's own circumstances. Conclusory assertions that such harms were "foreseeable" and would not have occurred "but for" Defendants' conduct are insufficient to satisfy Arizona's causation requirements.[13] *See Gipson*, 214 Ariz. at 143 ¶ 9 (requiring proof of causation as an essential element).

Because Plaintiff fails to establish an independent duty owed by the Individual Association Defendant and Management Defendants apart from the contractual governance structure of the Association, and because she fails to plausibly allege breach, causation, and legally cognizable damages, Count IX fails as a matter of law and must be dismissed.

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[11] *Id.* at ¶ 32.
[12] *Id.* at ¶ 37.
[13] *Id.* at ¶ 36.

J. Count X – Gross Negligence – Against the Individual Association Defendant and Management Defendants – Fails as a Matter of Law.

Count X is, again, a repackaged version of Count IV asserted against a narrower subset of overlapping Defendants. The factual predicates are materially identical. Compare Am. Compl. ¶ 11 (alleging reckless indifference and conscious disregard based on failure to address sanitation concerns and enforcement matters) with Am. Compl. ¶¶ 38-47 (alleging reckless disregard based on alleged misrepresentations, enforcement escalation, obstruction of architectural approvals, and failure to remediate hazards). Both counts rely on the same underlying theory, that Defendants failed to respond appropriately to alleged health and safety concerns and governance disputes, and that such conduct resulted in mold exposure, loss of funding, emotional distress, and housing instability. See Am. Compl. ¶ 12 and ¶¶ 48, 50-51. Plaintiff cannot avoid dismissal of Count IV by duplicating the same gross negligence theory under a different count number and limiting it to certain overlapping Defendants while relying on the same operative facts and damages allegations. Because Count X merely restates the allegations of Count IV without identifying a distinct duty, separate breach, or new damages theory, it fails for the same reasons set forth in Defendants' challenge to Count IV.

Furthermore, under Arizona law, gross negligence requires proof of conduct that is substantially more than ordinary negligence. It is "action or inaction with reckless indifference to the result or the rights or safety of others." *Walls v. Ariz. Dep't of Pub. Safety*, 170 Ariz. 591, 595 (App. 1991). To establish gross negligence, a plaintiff must

show that the defendant knew or had reason to know of facts creating a high degree of risk of substantial harm and nevertheless consciously disregarded that risk. *Id.*; *see also Rawlings v. Apodaca*, 151 Ariz. 149, 158 (1986) (requiring proof of a conscious disregard of substantial risk for punitive-type conduct).

As a threshold matter, the existence of a duty is a question of law. *Gipson v. Kasey*, 214 Ariz. 141, 143 ¶ 9 (2007). Plaintiff alleges that these Individual Association Defendants owed her a duty of care arising from their personal control over enforcement, communications, and decisions affecting housing stability. Am. Compl. ¶ 32. She further alleges that they were required to "act reasonably and truthfully once they had actual notice that their actions could foreseeably cause serious harm." *Id.* at ¶ 33.

However, any authority exercised by the Individual Association Defendant and Management Defendants existed solely by virtue of their roles within the Association's governance structure. The duties referenced in the Amended Complaint arise, if at all, from the CC&Rs and statutory HOA provisions, not from any independent tort-based obligation owed personally to Plaintiff. Recorded CC&Rs constitute a contract between the Association and its members. *Ahwatukee Custom Estates Mgmt. Ass'n v. Turner*, 196 Ariz. 631, 634 (App. 2000); *Horton v. Mitchell*, 200 Ariz. 523, 525 ¶ 8 (App. 2001). Arizona law is clear that a breach of contract does not give rise to tort liability absent an independent legal duty. *Flagstaff Affordable Hous. Ltd. P'ship v. Design Alliance, Inc.*, 223 Ariz. 320, 325 ¶ 26 (2010); *Aspell v. Am. Contract Bridge League of Memphis, Tenn.*, 122 Ariz. 399, 402 (App. 1979).

Plaintiff alleges that Defendants knowingly made false or misleading statements to law enforcement and agencies, mischaracterized her conduct, and obstructed access to architectural approval forms. Am. Compl. ¶¶ 39-47. Even assuming the truth of those allegations, they do not establish the existence of an independent legal duty in tort. Communications with law enforcement, litigation positions, and decisions concerning HOA forms and architectural approvals fall within the scope of governance and dispute resolution. Disagreements over governance decisions or escalation of enforcement do not, without more, create a tort duty separate from the contractual framework governing the parties' relationship.

Further, Plaintiff's allegations repeatedly characterize the conduct as intentional or deceptive. Am. Compl. ¶¶ 39-43 (alleging knowingly false statements and intentional misrepresentations). Intentional misconduct and fraud-based theories are distinct from negligence. Gross negligence is an aggravated form of negligence, not an intentional tort. Plaintiff cannot recast alleged intentional misrepresentation as gross negligence without establishing careless conduct rising to reckless indifference under Arizona law.

Plaintiff also alleges that Defendants had "actual knowledge" of risks related to mold exposure and potential harm to her and her children. Am. Compl. ¶ 39. She asserts that they consciously disregarded those risks by escalating enforcement and involving police rather than providing architectural forms. Am. Compl. ¶¶ 41-46. However, the provision of architectural forms and approval processes is governed by the CC&Rs and HOA procedures. Delays, disputes, or enforcement disagreements, even if frustrating, do

not automatically constitute reckless indifference to a substantial and unjustifiable risk of physical harm.

Moreover, Plaintiff alleges that Defendants' conduct caused loss of remediation funding, extended mold exposure, displacement, insurance instability, emotional distress, and financial harm. Am. Compl. ¶ 48. These alleged harms depend on a chain of causation involving independent third-party actors, funding decisions, and Plaintiff's own circumstances. Conclusory assertions that Defendants' actions were a "direct and proximate cause" of such damages[14] are insufficient absent well-pleaded facts establishing that these Individual Association Defendants' conduct created a high probability of substantial harm and that they consciously disregarded that probability. *See Gipson*, 214 Ariz. at 143 ¶ 9 (requiring proof of causation as an essential element).

Finally, Plaintiff alleges that Defendants acted with "conscious indifference" and an "evil mind" warranting punitive damages. Am. Compl. ¶¶ 50-51. Under Arizona law, punitive damages require clear and convincing evidence that the defendant acted with an "evil mind," meaning either intent to cause harm or conscious disregard of a substantial risk of significant harm. *Rawlings*, 151 Ariz. at 162. The allegations here, at most, describe governance disputes, enforcement escalation, and contested communications. They do not plausibly establish conduct so egregious that it rises to the level of gross negligence or punitive-eligible recklessness as defined by Arizona precedent.

Because Plaintiff fails to establish an independent tort duty owed personally by the

[14] *Id.* at ¶ 49.

Individual Association Defendant and Management Defendants; fails to plausibly allege reckless indifference to a known substantial risk; and fails to establish legally sufficient causation, Count X fails as a matter of law and should be dismissed.

K. Count XI – Intentional Torts – Against the Individual Association Defendant and Management Defendants – Fails as a Matter of Law.

Count XI is, again, a repackaged version of Count V asserted against a narrower subset of overlapping Defendants. The factual predicates are materially identical. Compare Am. Compl. ¶¶ 13-21 (alleging abuse of process, intentional interference, obstruction of statutory rights, coordinated conduct, and conspiracy arising from enforcement activity and governance decisions) with Am. Compl. ¶¶ 52-58 (alleging intentional interference with housing stability, abuse of authority, misuse of third parties, and personal liability based on the same enforcement, election, and communications-related conduct). Both counts arise from alleged enforcement escalation, records access disputes, communications with third parties, and governance actions undertaken within the context of Association administration. Plaintiff cannot avoid dismissal by duplicating the same intentional tort theory under a different count number while relying on the same conduct and alleged harms. Because Count V merely repackages the same intentional tort allegations asserted in Count XI without identifying a distinct underlying tort, separate duty, or new factual basis, it fails for the same reasons set forth in Defendants' challenge to Count XI.

Furthermore, to state a claim for an intentional tort under Arizona law, a plaintiff

must allege facts showing that the defendant acted with the purpose of causing a particular result or with knowledge that the result was substantially certain to occur. Restatement (Second) of Torts § 8A (1965); *see also Rawlings v. Apodaca*, 151 Ariz. 149, 162 (1986) (intentional misconduct requires proof of an "evil mind," meaning intent to injure or conscious pursuit of conduct knowing it creates a substantial risk of significant harm). Conclusory allegations of intentional wrongdoing are insufficient; the complaint must plead specific facts demonstrating purposeful, unlawful conduct.

Plaintiff alleges that the Individual Association Defendant and Management Defendants "intentionally and purposefully engaged in conduct designed to harm, intimidate, or coerce" her. Am. Compl. ¶ 52. She characterizes their conduct as intentional interference with housing stability, intentional infliction of emotional distress, abuse of authority, and misuse of third parties. *Id.* These assertions are labels and conclusions. They do not identify a specific, recognized intentional tort with its required elements, nor do they allege facts establishing the intent necessary to support such claims.

Plaintiff further alleges that the acts were "not within any legitimate HOA function." Am. Compl. ¶ 53. However, the conduct described, governance decisions, enforcement escalation, communications during disputes, and election-related activity, falls squarely within the scope of HOA administration and governance. Merely labeling such conduct as "weaponizing governance mechanisms"[15] does not remove it from the realm of Association activity. Disagreement with enforcement decisions or internal

[15] *Id.* at ¶ 52.

governance processes does not transform those acts into independent intentional torts.

Plaintiff next alleges that Defendants' intentional conduct caused loss of insurance and medical access, jeopardy to children's benefits, emotional distress, and housing instability. Am. Compl. ¶ 54. However, proximate cause requires more than speculation that adverse life circumstances followed contentious homeowner association interactions. *See Gipson v. Kasey*, 214 Ariz. 141, 143 ¶ 9 (2007) (causation is an essential element of any tort). The alleged harms involve intervening decisions by insurers, agencies, funding entities, and Plaintiff's own circumstances. Conclusory statements that Defendants' actions were the "direct and proximate cause" of such consequences are insufficient without well-pleaded facts establishing that Defendants intended those results or knew they were substantially certain to occur.

Plaintiff also alleges that Defendants are personally liable because they "personally committed, authorized, ratified, or knowingly failed to prevent the tortious conduct alleged". Am. Compl. ¶ 56. Under Arizona law, corporate officers or agents may be individually liable only for torts in which they personally participate. However, liability still depends on the existence of an underlying tort. Where the alleged conduct consists of governance decisions, enforcement actions, and communications within the context of Association operations, and where no independent tort is adequately pled, there is no basis for personal tort liability.

Plaintiff further asserts that Defendants' actions "exceeded the scope of any lawful HOA role." Am. Compl. ¶ 57. This is a legal conclusion, not a factual allegation. Whether

conduct falls within the scope of agency or governance authority is determined by the nature of the acts, not by Plaintiff's characterization of them. The acts described in ¶¶ 52-55, enforcement escalation, election-related activity, and communications with third parties, are inherently tied to Association governance and dispute management.

Finally, Plaintiff states that these claims are asserted "solely as tort claims." Am. Compl. ¶ 58. However, merely labeling claims as torts does not create an independent tort duty where the relationship between the parties is governed by contract and HOA governing documents. Arizona law does not permit a plaintiff to repackage governance disputes or alleged contractual breaches as intentional torts absent a duty imposed by law independent of the contractual relationship. *Flagstaff Affordable Hous. Ltd. P'ship v. Design Alliance, Inc.*, 223 Ariz. 320, 325 ¶ 26 (2010); *Aspell v. Am. Contract Bridge League of Memphis, Tenn.*, 122 Ariz. 399, 402 (App. 1979).

Because Plaintiff fails to identify and plead the elements of any specific intentional tort; fails to allege facts establishing purposeful conduct intended to cause harm or conduct undertaken with knowledge that harm was substantially certain to occur; and fails to establish legally sufficient causation, Count XI fails to state a claim against the Individual Association Defendant and the Management Defendants and should be dismissed as a matter of law.

A. <u>WITNESSES - RULE 26.1(a)(3)</u>.

1. Rule 30(b)(6) Representative for Gardens Gilbert Community Association, c/o Undersigned Counsel. This designated representative is expected to testify regarding

the Association's governance, maintenance of common areas, implementation of community rules, and the Association's compliance with its obligations under the CC&Rs and Arizona law, as well as matters related to the claims and defenses at issue in this litigation.

2. Sandra Rodriguez, individually, expected to testify regarding her ownership within the Gardens Gilbert Community, her observations of the property and maintenance activities, her communications with the Association and its management, and the factual basis of her claims for negligence, gross negligence, and intentional torts, as well as matters related to the claims and defenses at issue in this litigation.

3. Rule 30(b)(6) Representative for Focus HOA Management, LLC, c/o Undersigned Counsel. This designated representative is expected to testify regarding the Association's governance, maintenance of common areas, implementation of community rules, and the Association's compliance with its obligations under the CC&Rs and Arizona law, as well as matters related to the claims and defenses at issue in this litigation.

4. Harman Cadis, individually, c/o Undersigned Counsel. This witness is expected to testify regarding the Association's governance, maintenance of common areas, implementation of community rules, and the Association's compliance with its obligations under the CC&Rs and Arizona law, as well as matters related to the claims and defenses at issue in this litigation.

5. Brooke Sortor, individually, c/o Undersigned Counsel. This witness is expected to testify regarding the Association's governance, maintenance of common

areas, implementation of community rules, and the Association's compliance with its obligations under the CC&Rs and Arizona law, as well as matters related to the claims and defenses at issue in this litigation.

6. Anna Schultz, individually, c/o Undersigned Counsel. This witness is expected to testify regarding the Association's governance, maintenance of common areas, implementation of community rules, and the Association's compliance with its obligations under the CC&Rs and Arizona law, as well as matters related to the claims and defenses at issue in this litigation.

7. Current and Former Board Members of the Gardens Gilbert Community Association, c/o Undersigned Counsel to include but not limited to:

2019-2020 (as of 11/14/2019 and 2020):

- Nicole Winslow - President
- Anna Foss-Schultz - Vice President
- Aubrey Fox - Secretary
- Sarah Herrera - Treasurer
- Hailey Wells Brigham - Member at Large

2021:

- Joshua Dick - President
- Anna Foss-Schultz - Vice President
- Sarah Herrera - Treasurer
- Hailey Brigham - Member at Large

2022:

- Joshua Dick - President
- Anna Foss-Schultz - Vice President
- Sarah Herrera - Treasurer

2023:

- Anna Foss-Schultz - President
- Sarah Herrera - Treasurer
- Cory Krebs - Vice President

2024:

- Anna Schultz - President
- Sarah Herrera – Treasurer
- Kristene Celaya – Secretary
- Coyan Bidwell – Member at Large

2025 / Current:

- Anna Schultz – President
- Sarah Herrera – Vice President
- Kristene Celaya – Secretary
- Jennifer Watkins – Member at Large

8. Ex parte contact with any such witness (current and/or former board member or officer of the Association), any other employee, former employee, former managing agent, employee or former employee thereof is prohibited without the express consent and/or presence of the Association's counsel. *See Lang v. Superior Court*, 826 P.2d 1228, 1230 (App. 1992).

9. Adult son of Plaintiff Sandra Rodriguez (name to be disclosed by Plaintiff), expected to testify regarding his observations of the property conditions, including but not limited to alleged structural, environmental, or maintenance-related issues, and any opinions or statements he made to Plaintiff concerning the condition of the property, as well as damages or matters related to the claims and defenses at issue in this litigation.

10. Onsite witnesses (if any) yet to be identified.

11. Defendants reserve the right to identify and call as foundation witnesses any witness identified in the documents, photographs and records disclosed herewith, discovered hereafter, or any witness necessary for establishing foundation for any evidence, including expert witnesses, unless otherwise objected to by Defendant.

12. Defendants also reserve the right to call to testify any witness or witnesses

identified and disclosed by Plaintiff or other defendants, unless otherwise objected to by Defendants.

Discovery is ongoing and subject to further supplementation.

B. PERSONS WITH KNOWLEDGE OR INFORMATION - RULE 26.1(a)(4).

None, other than those disclosed herein. Discovery is ongoing and Defendants will supplement as necessary.

C. PERSONS WHO HAVE GIVEN STATEMENTS - RULE 26.1(a)(5).

Defendants are currently unaware of anyone who has given statements in this matter, other than matters otherwise disclosed herein. Discovery is ongoing and Defendants will supplement as necessary.

D. EXPERT WITNESS DISCLOSURE - RULE 26.1(a)(6).

Defendants do not anticipate the need or use of expert opinion testimony at this time, but nonetheless reserves the right to supplement this section and disclosure, accordingly, as discovery progresses.

Defendants may call expert witnesses in the following subject areas, including but not limited to:

- homeowners' association governance, management practices, and industry standards;
- interpretation, enforcement, and administration of CC&Rs and planned community obligations under Arizona law;
- property management practices and reasonable standards of care applicable to community associations and their managing agents;

- corporate governance, records retention practices, and statutory compliance under A.R.S. Title 33;
- maintenance, inspection, and condition of common areas within planned communities;
- environmental, sanitation, or nuisance-related conditions, including but not limited to alleged pet waste, odors, vegetation, or general cleanliness;
- mold, water intrusion, and environmental health conditions, including causation and remediation standards;
- medical or health-related issues, including causation of alleged injuries or conditions;
- property damage, valuation, and alleged diminution in value;
- insurance coverage, underwriting, and claims handling practices;
- damages, including economic loss, causation, and mitigation; and
- law enforcement practices, incident response, and communications with public agencies.

Defendants reserve the right to call any expert witnesses disclosed by Plaintiff or any other party, and to designate rebuttal experts as necessary. Defendants will supplement this disclosure in accordance with Rule 26.1 as discovery progresses.

E. COMPUTATION OF DAMAGES - RULE 26.1(a)(7).

Plaintiff alleges damages. Defendants reserve the right to request an award of attorney's fees and/or costs upon prevailing in this matter as authorized by applicable substantive, statutory and procedural Arizona law.

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F. DOCUMENTS AND TANGIBLE EVIDENCE - RULE 26.1(a)(8).

1. All documents disclosed or attached to any and all disclosure statements exchanged by any party herein this action pursuant to Rule 26.1, Ariz. R. Civ. P.
2. All documents produced in response to any and all discovery undertaken and propounded by the parties herein this matter pursuant to Rules 33 through 36, Ariz. R. Civ. P.
3. All correspondences and communications by and between the parties and/or exchanged through respective counsel.
4. All pleadings and accompanying exhibits filed by any party herein this action to date.
5. Rulings and minute entry orders of the Court in this action.
6. All other documents or correspondences disclosed between the parties or deposition transcripts and demonstrative evidence discovered during discovery.
7. Declaration of Covenants, Conditions, Restrictions and Easements for the Gardens [Bates Labeled as GARDENS0001-GARDENS0066].
8. Bylaws of Gardens Gilbert Community Association [Bates Labeled as GARDENS0067-0078].
9. Gardens Gilbert Community Association Insurance Policy [Bates Labeled as GARDENS0079-0197].

10. Affidavit - Declaration of Focus Management Rule 30(b)(6) Representative [Bates Labeled as GARDENS0198-0201].

11. Affidavit - Declaration of Brooke Sortor [Bates Labeled as GARDENS0202-0204].

12. Affidavit - Declaration of Harman Cadis [Bates Labeled as GARDENS0205-0207].

13. Affidavit - Declaration of Gardens Gilbert Community Association Rule 30(b)(6) Representative [Bates Labeled as GARDENS0208-0210].

14. Affidavit - Declaration of Anna Schultz [Bates Labeled as GARDENS0211-0213].

15. Certified Mailing Receipt [Bates Labeled as GARDENS0214-0215].

Other than the exhibits identified herein, Defendants are unaware of any other documents at this time that are relevant to the subject matter of this action. Discovery is ongoing in this amended claim(s) portion of this litigation matter, and as such, Defendants reserve the right to supplement this Disclosure accordingly.

G. ELECTRONICALLY STORED INFORMATION - RULE 26.1(a)(9).

See Section F, above. Discovery is ongoing. Defendants reserve the right to supplement this Disclosure.

H. INSURANCE RELATED INFORMATION - RULE 26.1(a)(10).

Defendants' defense is being covered under an insurance policy issued by The Cincinnati Insurance Companies ***as disclosed under Bates Label GARDENS0079-0197.***

EXHIBIT 9

The coverage is limited to $1,000,000. This disclosure of information is subject to all rights and objections pursuant to Rule 411, Ariz. R. Evid., and applicable evidentiary, substantive or procedural rules including Rule 26.1(a)(10), Ariz. R. Civ. P. ("Information concerning an insurance policy, indemnity agreement, or suretyship agreement is not admissible in evidence merely because it is disclosed under this rule.").

II. PRODUCTION OF DOCUMENTS (HARD COPIES AND ESI) - RULE 26.1(b).

All of the documents and records specifically identified hereinabove as individually paginated and Bates-numbered documents produced with this disclosure.

DATED this 13th day of April, 2026.

SHAW & LINES, LLC

/s/ Dominick D. Detente
Augustus H. Shaw IV, Esq.
Dominick D. Detente, Esq.
1490 South Price Road, Suite 318
Chandler, Arizona 85286
Counsel for Defendant

ORIGINAL of the foregoing e-mailed and mailed
this 13th day of April, 2026 to:

Sandra Rodriguez
4375 East Betsy Lane
Gilbert, Arizona 85296
sandra.rodriguez0339@gmail.com
Plaintiff, Pro Per

By: /s/ Diane Fincher

EXHIBIT 9

EXHIBIT 16

SHAW & LINES, LLC
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Chandler, AZ 85286
Phone (480) 456-1500
ashaw@shawlines.com
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Augustus H. Shaw IV, SBN 021593
Dominick D. Detente, SBN 040350
Counsel for Defendants

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

SANDRA RODRIGUEZ,

Plaintiff,

vs.

GARDENS/GILBERT COMMUNITY ASSOCIATION, an Arizona non-profit corporation, FOCUS HOA MANAGEMENT, LLC, an Arizona limited liability company; HARMAN CADIS; BROOKE SORTOR; and ANNA SCHULTZ,

Defendants.

Case No. CV2024-005940

POST-AMENDMENT RESPONSES TO PLAINTIFF'S (I) REQUESTS FOR PRODUCTION OF DOCUMENTS, (II) REQUESTS FOR ADMISSIONS, AND (III) NON-UNIFORM INTERROGATORIES TO DEFENDANTS

Assigned to the Honorable McDowell

Tier 3

Defendants Gardens/Gilbert Community Association, Anna Schultz, Focus HOA Management, LLC, Harman Cadis, and Brooke Sortor (hereafter collectively referred to herein as "Defendants") through undersigned counsel and pursuant to Ariz. R. Civ. P. 33, 34 and 36, hereby respond to Plaintiff's Requests for Production of Documents, Requests for Admissions, and Non-Uniform Interrogatories ("Discovery Requests") to Defendants up to the appropriate tier 3 designation in accordance with Ariz. R. Civ. P. 26.2(f)(3), as follows. Thus, Defendants object to Plaintiff's discovery requests under Ariz. R. Civ. P. 33, 34, and 36 to the extent they exceed the numerical limits and scope permitted for a Tier 3 case under Ariz. R. Civ. P. 26.2(f)(3), and will not respond to such excess requests absent agreement of the parties or order of the Court.

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PRELIMINARY STATEMENT

Defendants' investigation and development of all facts and circumstances relating to this action are ongoing. These responses and objections are made without prejudice to, and are not a waiver of, Defendants' right to rely on other facts or documents at trial.

By making the accompanying responses and objections to Plaintiff's Discovery Requests, Defendants do not waive, and hereby expressly reserve, each's own right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality and privilege. Further, Defendants make the responses and objections herein without, in any way, implying that the same considers the Discovery Requests, and/or responses therein, to be relevant or material to the subject matter of this action.

Defendants will produce responsive documents only to the extent that such documents are in the possession, custody, or control of Defendants and/or its custodian of record. Defendants' possession, custody, or control does not include any constructive possession that may be conferred by either Defendants' right or power to compel the production of documents or information from third-parties or to request their production. Publicly available documents including, but not limited to, court papers and recorded documents will not be produced.

A response to an interrogatory requesting documents and/or request for admission stating objections and/or indicating that documents will be produced, shall not be deemed or construed that there are, in fact, responsive documents, or that Defendants performed any of the acts described in these Discovery Requests, definitions and/or instructions applicable to these Discovery Requests, or that either Defendant acquiesces in the characterization of the conduct or activities contained in any such Discovery Requests, or definitions and/or instructions applicable to either of the same.

Defendants expressly and separately reserve their rights to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

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OBJECTIONS

Defendants object to each instruction, definition, request or interrogatory to the extent that it seeks information or documents protected or otherwise immune from disclosure by the attorney-client privilege, attorney work product doctrine, or any other applicable privilege. Should any such disclosure by Defendants occur, it is inadvertent and shall not constitute a waiver of any privilege.

Defendants object to the extent that these Discovery Requests seek to impose upon any such Defendant, duties greater than those set forth in the Arizona Civil Rules of Civil Procedure.

Defendants object to each instruction, definition, interrogatory, and/or request as overbroad and unduly burdensome to the extent it seeks documents or information that are readily or more accessible to Plaintiff from her own files, from documents or information in the possession of Plaintiff, or from documents or information that Defendants previously produced to Plaintiff. Responding to such Discovery Request would be oppressive, unduly burdensome, and unnecessarily expensive, and the burden of responding to such Discovery Request is substantially the same or less for Plaintiff as for Defendants. This objection encompasses, but is not limited to, documents and answers to interrogatories previously produced by any party in the course of any prior civil litigation concerning and/or involving any party here to this instant lawsuit, all potential transcripts of depositions of employees and former employees of either Defendants, all correspondence between Plaintiff and Defendants, all other information provided by Defendants to Plaintiff, and all information produced by Defendants to Plaintiff in response to other discovery or document requests of Plaintiff. Defendants further state that, to the extent responsive documents and information have been previously produced or disclosed, such materials will not be reproduced, and are rather incorporated herein by reference.

Many of the documents and records were previously reviewed and produced to Plaintiff responsive to any pre-litigation records request, and again identified and produced in disclosure herein. As such, the Association objects to this request as it is duplicative, repetitive, unduly burdensome and over-reaching. Notwithstanding,

and without waiving all rights and these objections, the Association hereby responds to each of the following discovery requests, reserving and incorporating this overall objection. Documents identified, disclosed and produced herewith may be duplicates of what has been identified, disclosed and produced previously, but identified and produced herewith again for purposes of responding specifically to these discovery requests.

Each of the following responses and objections are made without waiving any objections either Defendant may have to the subsequent use of the responses to these Discovery Requests. Defendants specifically and separately reserve the following: (1) all questions as to privilege, relevancy, materiality, and admissibility of its responses; (2) the right to object to the use of its responses in any proceeding on any or all of the grounds as set forth herein or on any other proper ground; (3) the right to object on any and all proper grounds, at all times, to other discovery procedures involving or related to its responses or documents; and (4) the right, at any time, upon proper showing to revise, correct, or clarify any of the following responses and objections.

Defendants do not concede the relevance of these Discovery Requests, nor the relevancy or admissibility of any information or document provided in response to the same. The fact that information is provided in response to a particular request for admission or interrogatory does not mean that it is probative of any particular issue in this case.

Defendants further object to each Interrogatory, Request for Production, and Request for Admission to the extent it exceeds the numerical limits imposed by Ariz. R. Civ. P. 26.2(f).

This action has been previously been designated a Tier 1 discovery case by the Superior Court. In its November 12, 2025 minute entry and Scheduling Order, the Court ordered that "This case is assigned to discovery Tier 1 pursuant to Rule 26.2."

Accordingly, discovery in this matter was governed by Ariz. R. Civ. P. 26.2(f)(1), which limits discovery per side (plaintiffs collectively and defendants collectively) in a Tier 1 case to five (5) total hours of fact-witness depositions, five (5) Rule 33

interrogatories, five (5) Rule 34 requests for production, ten (10) Rule 36 requests for admission, absent court order permitting additional discovery for good cause shown.

Plaintiff's previous discovery requests dated December 1, 2025 exceed the numerical limits permitted under Rule 26.2(f)(1). Defendants therefore objected to any discovery request that exceeded the applicable Tier 1 limits as improper, unauthorized, and in violation of the Arizona Rules of Civil Procedure.

Without waiving these objections, and solely to avoid unnecessary motion practice, Defendants had responded on December 23, 2025, only to the first permitted number of discovery requests within each category as allowed under Ariz. R. Civ. P.26.2 (f)(1), and expressly object to and decline to respond to any requests beyond those limits unless and until the Court orders otherwise.

This action has now been designated a Tier 3 discovery case by the Superior Court. In its February 3, 2026 minute entry and Scheduling Order, the Court ordered that "This case is now assigned to discovery Tier 3 pursuant to Rule 26.2."

Accordingly, discovery in this matter is now governed by Ariz. R. Civ. P. 26.2(f)(3), which limits discovery per side (plaintiffs collectively and defendants collectively) in a Tier 3 case to twenty (20) Rule 33 interrogatories, ten (10) Rule 34 requests for production, twenty (20) Rule 36 requests for admission, absent court order permitting additional discovery for good cause shown.

Plaintiff's renewed discovery requests dated December 22, 2025, March 2, 2026, and March 3, 2026, exceed the numerical limits permitted under Ariz. R. Civ. P. 26.2(f)(3). Defendants therefore objected to any discovery request that exceeded the applicable Tier 3 limits as improper, unauthorized, and in violation of the Arizona Rules of Civil Procedure.

Subject to and without waiving the foregoing objections, and solely to avoid unnecessary motion practice, Defendants now respond again, only to the first permitted number of discovery requests within each category as allowed under Ariz. R. Civ. P. 26.2(f)(3), and expressly object to and decline to respond to any requests beyond those limits unless and until the Court orders otherwise.

///

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce a complete list of all former and current GGCA Board Members from 2019 to present, including: names; dates of service; officer roles held; reason for departure (if applicable); resumes or background information provided to the HOA or management company.

RESPONSE: Defendants do not possess resumes for Gardens Gilbert Community Association Board of Directors (hereafter, "Board"). To the extent this Request seeks undefined or unlimited "background information," it is overly broad and not proportional to the needs of the case, as it is not reasonably particularized and is not limited to information relevant to any claim or defense.

Notwithstanding the foregoing, Defendants provide the names and officer roles of the Gardens Gilbert Community Association Board members reflected in the Association's available records from 2019 to present as follows:

2019-2020 (as of 11/14/2019 and 2020):

- Nicole Winslow - President
- Anna Foss-Schultz - Vice President
- Aubrey Fox - Secretary
- Sarah Herrera - Treasurer
- Hailey Wells Brigham - Member at Large

2021:

- Joshua Dick - President
- Anna Foss-Schultz - Vice President
- Sarah Herrera - Treasurer
- Hailey Brigham - Member at Large

2022:

- Joshua Dick - President
- Anna Foss-Schultz - Vice President
- Sarah Herrera - Treasurer

2023:

- Anna Foss-Schultz - President
- Sarah Herrera - Treasurer

- Cory Krebs - Vice President

2024:

- Anna Schultz - President
- Sarah Herrera - Treasurer
- Kristene Celaya - Secretary
- Coyan Bidwell - Member at Large

2025 / Current:

- Anna Schultz - President
- Sarah Herrera - Vice President
- Kristene Celaya - Secretary
- Jennifer Watkins - Member at Large

Please see the attached Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, reflecting the same.

2. Produce all documents identifying personal, professional, or familial relationships between: GGCA Board members.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by time, subject matter, or any connection to the claims or defenses at issue and instead seeks sweeping personal information regarding Board members that has no bearing on Plaintiff's negligence, contract, or statutory claims. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Additionally, the Request fails to identify any factual basis suggesting that alleged "personal, professional, or familial relationships" between Board members are relevant to liability, damages, or any element of Plaintiff's remaining claims. Discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *See* Ariz. R. Civ. P. 26(b)(1).

Defendants further object to this Request on the grounds that it is compound and not reasonably particularized, as it combines multiple distinct categories of individuals and entities, including GGCA Board members, Focus HOA employees, vendors, election volunteers, Facebook group administrators or moderators, and committee members, into a single Request for Production.

Defendants will respond to each category separately and subject to the objections set forth herein.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify personal, professional, or familial relationships between Board members.

Accordingly, no additional documents are produced in response to this Request.

3. Produce all documents identifying personal, professional, or familial relationships between: Focus HOA employees.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by time, subject matter, or any connection to the claims or defenses at issue and instead seeks sweeping personal information regarding Focus HOA employees that has no bearing on Plaintiff's negligence, contract, or statutory claims. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Additionally, the Request fails to identify any factual basis suggesting that alleged "personal, professional, or familial relationships" between Focus HOA employees are relevant to liability, damages, or any element of Plaintiff's remaining claims. Discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *See* Ariz. R. Civ. P. 26(b)(1).

Defendants further object to this Request on the grounds that it is compound and not reasonably particularized, as it combines multiple distinct categories of individuals and entities, including GGCA Board members, Focus HOA employees, vendors, election volunteers, Facebook group administrators or moderators, and committee members, into a single Request for Production. Defendants will respond to each category separately and subject to the objections set forth herein.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify personal, professional, or familial relationships between Focus HOA employees.

Accordingly, no additional documents are produced in response to this Request.

4. Produce all documents identifying personal, professional, or familial relationships between: vendors.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by time, subject matter, or any connection to the claims or defenses at issue and instead seeks sweeping personal information regarding vendors that has no bearing on Plaintiff's negligence, contract, or statutory claims. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Additionally, the Request fails to identify any factual basis suggesting that alleged "personal, professional, or familial relationships" between vendors are relevant to liability, damages, or any element of Plaintiff's remaining claims. Discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *See* Ariz. R. Civ. P. 26(b)(1).

Defendants further object to this Request on the grounds that it is compound and not reasonably particularized, as it combines multiple distinct categories of individuals and entities, including GGCA Board members, Focus HOA employees, vendors, election volunteers, Facebook group administrators or moderators, and committee members, into a single Request for Production. Defendants will respond to each category separately and subject to the objections set forth herein.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify personal, professional, or familial relationships between vendors.

Accordingly, no additional documents are produced in response to this Request.

5. Produce all documents identifying personal, professional, or familial relationships between: election volunteers.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by time, subject matter, or any connection to the claims or defenses at issue and instead seeks sweeping personal information regarding election volunteers that has no bearing on Plaintiff's negligence, contract, or statutory

claims. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Additionally, the Request fails to identify any factual basis suggesting that alleged "personal, professional, or familial relationships" between election volunteers are relevant to liability, damages, or any element of Plaintiff's remaining claims. Discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *See* Ariz. R. Civ. P. 26(b)(1).

Defendants further object to this Request on the grounds that it is compound and not reasonably particularized, as it combines multiple distinct categories of individuals and entities, including GGCA Board members, Focus HOA employees, vendors, election volunteers, Facebook group administrators or moderators, and committee members, into a single Request for Production. Defendants will respond to each category separately and subject to the objections set forth herein.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify personal, professional, or familial relationships between election volunteers.

Accordingly, no additional documents are produced in response to this Request.

6. Produce all documents identifying personal, professional, or familial relationships between: Facebook group administrators or moderators.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by time, subject matter, or any connection to the claims or defenses at issue and instead seeks sweeping personal information regarding Facebook group administrators or moderators that has no bearing on Plaintiff's negligence, contract, or statutory claims. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Additionally, the Request fails to identify any factual basis suggesting that alleged "personal, professional, or familial relationships" between Facebook group administrators or moderators are relevant to liability, damages, or any element of Plaintiff's remaining claims. Discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *See* Ariz. R. Civ. P. 26(b)(1).

Defendants further object to this Request on the grounds that it is compound and not reasonably particularized, as it combines multiple distinct categories of individuals and entities, including GGCA Board members, Focus HOA employees, vendors, election volunteers, Facebook group administrators or moderators, and committee members, into a single Request for Production. Defendants will respond to each category separately and subject to the objections set forth herein.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify personal, professional, or familial relationships between Facebook group administrators or moderators.

Accordingly, no additional documents are produced in response to this Request.

7. Produce all documents identifying personal, professional, or familial relationships between: committee members.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by time, subject matter, or any connection to the claims or defenses at issue and instead seeks sweeping personal information regarding committee members that has no bearing on Plaintiff's negligence, contract, or statutory claims. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Additionally, the Request fails to identify any factual basis suggesting that alleged "personal, professional, or familial relationships" between committee members are relevant to liability, damages, or any element of Plaintiff's remaining claims. Discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *See* Ariz. R. Civ. P. 26(b)(1).

Defendants further object to this Request on the grounds that it is compound and not reasonably particularized, as it combines multiple distinct categories of individuals and entities, including GGCA Board members, Focus HOA employees, vendors, election volunteers, Facebook group administrators or moderators, and committee members, into a single Request for Production. Defendants will respond to each category separately and subject to the objections set forth herein.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify personal, professional, or familial relationships between committee members.

Accordingly, no additional documents are produced in response to this Request.

8. Produce all conflict-of-interest disclosures made by any Board Member, management employee, or officer from 2019-present, including disclosures required under: A.R.S. § 10-3830.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by subject matter or any connection to the claims or defenses at issue, and therefore is not reasonably particularized. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Defendants further object to the extent this Request seeks information that is irrelevant to Plaintiff's remaining claims, including negligence, contract, and statutory claims, and instead appears to be a fishing expedition into general governance practices unrelated to the allegations in this action. *See* Ariz. R. Civ. P. 26(b)(1). As such, discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *Id.*

Defendants further object to this Request to the extent it is premised on an incorrect characterization of A.R.S. § 10-3830, which does not require or mandate the creation or maintenance of "conflict-of-interest disclosures," but instead sets forth general standards of conduct for directors. Accordingly, the Request seeks documents that are not required to exist under the cited statute.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify conflict-of-interest disclosures made by any Board Member, management employee, or officer from 2019-present, including disclosures required under A.R.S. § 10-3830.

Accordingly, no additional documents are produced in response to this Request.

9. Produce all conflict-of-interest disclosures made by any Board Member, management employee, or officer from 2019-present, including disclosures required under: CC&Rs.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by subject matter or any connection to the claims or defenses at issue, and therefore is not reasonably particularized. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Defendants further object to the extent this Request seeks information that is irrelevant to Plaintiff's remaining claims, including negligence, contract, and statutory claims, and instead appears to be a fishing expedition into general governance practices unrelated to the allegations in this action. *See* Ariz. R. Civ. P. 26(b)(1). As such, discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *Id.*

Defendants further object to this Request to the extent it is premised on the assumption that the Association's governing documents, including the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460, and any subsequently recorded amendments thereafter ("CC&Rs") require the creation or maintenance of "conflict-of-interest disclosures." To the extent the CC&Rs do not impose any such requirement, the Request seeks documents that are not required by the Association's CC&Rs.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify conflict-of-interest disclosures made by any Board Member, management employee, or officer from 2019-present, including disclosures required under the CC&Rs.

Accordingly, no additional documents are produced in response to this Request.

10. Produce all conflict-of-interest disclosures made by any Board Member, management employee, or officer from 2019-present, including disclosures required under: Bylaws.

RESPONSE: Defendants object because this Request is overly broad, irrelevant, and not proportional to the needs of the case. The Request is not limited by subject matter or any connection to the claims or defenses at issue, and therefore is not reasonably particularized. The Request appears designed to probe for speculation rather than to obtain non-privileged information relevant to any pleaded issue.

Defendants further object to the extent this Request seeks information that is irrelevant to Plaintiff's remaining claims, including negligence, contract, and statutory claims, and instead appears to be a fishing expedition into general governance practices unrelated to the allegations in this action. *See* Ariz. R. Civ. P. 26(b)(1). As such, discovery is not permitted for purposes of harassment, character exploration, or fishing expeditions unrelated to the merits. *Id.*

Defendants further object to this Request to the extent it is premised on the assumption that the Association's Bylaws require the creation or maintenance of "conflict-of-interest disclosures." To the extent the Bylaws do not impose any such requirement, the Request seeks documents that are not required by the Association's Bylaws.

Subject to and without waiving the foregoing objections, after reasonable inquiry, Defendants are not aware of any non-privileged documents maintained in the ordinary course of business that identify conflict-of-interest disclosures made by any Board Member, management employee, or officer from 2019-present, including disclosures required under the Bylaws.

Accordingly, no additional documents are produced in response to this Request.

Defendants further state that this action has been expressly designated a Tier 3 discovery case pursuant to Ariz. R. Civ. P. 26.2 by the Superior Court's February 3, 2026 minute entry and Scheduling Order.

Accordingly, discovery in this matter is governed by Ariz. R. Civ. P. 26.2(f)(3), which limits each side in a Tier 3 case to ten (10) Requests for Production, absent Court order permitting additional discovery for good cause shown.

To the extent Plaintiff's Requests for Production exceed the numerical limits permitted under Ariz. R. Civ. P. 26.2(f)(3), Defendants object and decline to respond to any such additional requests. Without waiving those objections, Defendants have responded only to the first ten Requests for Production as required by the Arizona Rules of Civil Procedure. Defendants will not provide further responses or productions beyond those limits unless and until ordered by the Court.

REQUESTS FOR ADMISSIONS

1. Admit you made or circulated at least one allegation of fraud, misconduct, noncompliance, or wrongdoing about Plaintiff Sandra Rodriguez.

Admit ___ **Deny** _X_

2. Admit you communicated at least one such allegation to a third party, including but not limited to homeowners, vendors, management, or government agencies.

Admit ___ **Deny** _X_

RESPONSE: Defendants object to this Request on the grounds that it is vague and ambiguous as to the phrase "one such allegation," including what specific allegation is being referenced, and therefore is not reasonably particularized.

Subject to and without waiving the foregoing objection, Defendants construe this Request as referring to the same allegations referenced in prior Requests for Admission, and, so construed, deny.

3. Admit you did not conduct any investigation before making at least one allegation against Plaintiff.

Admit ___ **Deny** _X_

4. Admit you cannot produce documentation supporting any accusation of fraud or misconduct made about Plaintiff.

Admit ___ **Deny** _X_

5. Admit at least one statement made about Plaintiff was false, inaccurate, or unsupported by evidence.

Admit ___ **Deny** _X_

6. Admit allegations made against Plaintiff were used to justify enforcement, monitoring, or visits to Plaintiff's home.

Admit ___ **Deny** _X_

7. Admit communications about Plaintiff were shared with individuals who were not employees, board members, or attorneys for the HOA or management company.

Admit X **Deny** X

RESPONSE: Defendants object to this Request on the grounds that it is vague and ambiguous as to the term "communications," including the scope, content, and context of such communications, and therefore is not reasonably particularized.

Further, this Request seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure or admission under Rule 36, Ariz. R. Civ. P.

Subject to and without waiving the foregoing objection, Defendants admit in part and deny in part. Defendants admit that, on one occasion, on May 2, 2025, law enforcement was contacted due to Plaintiff's conduct and related safety concerns when Plaintiff refused to leave Focus HOA Management's office. Defendants deny that communications about Plaintiff were otherwise shared with individuals outside of employees or board members.

8. Admit you made at least one report, complaint, statement, allegation, or referral concerning Plaintiff to a government agency.

Admit X **Deny** _____

RESPONSE: Defendants object to this Request on the grounds that it is compound because it combines separate inquiries regarding different actors, including Defendants and Defendants' counsel, into a single Request for Admission. Defendants have construed and responded to this Request solely as it pertains to Defendants, without waiving this objection.

Subject to and without waiving the foregoing objection, Defendants admit that, on one occasion, on May 2, 2025, law enforcement was contacted, due to Plaintiff's conduct and related safety concerns, when Plaintiff refused to leave Focus HOA Management's office. No other agencies were called.

9. Admit your attorney made at least one report, complaint, statement, allegation, or referral concerning Plaintiff to a government agency.

RESPONSE: This Request seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under

Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure or admission under Rule 36, Ariz. R. Civ. P.

10. Admit at least one such report concerned allegations of fraud, misconduct, safety issues, or wrongdoing.

Admit X **Deny** X

RESPONSE: Admit in part. Deny in part. Defendants admit that law enforcement was contacted on one occasion, on May 2, 2025, law enforcement was contacted, due to Plaintiff's conduct and related safety concerns, when Plaintiff refused to leave Focus HOA Management's office. Defendants deny that any report or referral alleged fraud beyond that specific incident.

11. Admit you cannot produce documentation that supported at least one such report.

Admit ___ **Deny** X

12. Admit no written notice was provided to Plaintiff regarding such reports.

Admit ___ **Deny** X

RESPONSE: Defendants deny this Request as phrased. Defendants further state that any communications or notices provided to Plaintiff were made in accordance with applicable policies and procedures and/or as required under the circumstances. To the extent this Request is vague as to the term "such reports" or the type of "written notice" referenced, Defendants deny any implication that notice was required but not provided.

13. Admit at least one report was made in response to Plaintiff asserting her rights, making complaints, or requesting records (A.R.S. § 33-1805).

Admit ___ **Deny** X

14. Admit at least one government-related report concerning Plaintiff was initiated, drafted, or encouraged by association counsel.

RESPONSE: This Request seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under

Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure or admission under Rule 36, Ariz. R. Civ. P.

15. Admit that at least one Defendant, agent, manager, board member, or vendor visited or entered onto Plaintiff's property or the area immediately outside her property.

Admit __ **Deny X**

RESPONSE: Defendants deny this Request as phrased. Defendants further state that the Request is vague and ambiguous as to the terms "visited," "entered," and "area immediately outside her property," and therefore cannot be admitted as stated. To the extent Plaintiff refers to routine observations or presence in common areas or other locations within the community, any such activity would have been consistent with ordinary Association operations and does not constitute entry onto Plaintiff's property.

16. Admit at least one visit occurred without Plaintiff's written consent.

Admit __ **Deny X**

RESPONSE: Defendants deny this Request as phrased. Defendants further state that the Request is vague and ambiguous as to the term "visit" and the scope of "Plaintiff's property." Defendants further deny that any entry onto Plaintiff's property, if any occurred, was improper or required written consent under the applicable circumstances.

17. Admit you did not provide Plaintiff with written notice prior to at least one visit.

Admit __ **Deny X**

RESPONSE: Defendants deny this Request as phrased. Defendants further state that the Request is vague and ambiguous as to the terms "visit" and fails to identify the circumstances under which such "written notice" would be required. Defendants deny any implication that written notice was required but not provided.

18. Admit at least one visit was retaliatory, enforcement-related, or complaint-triggered.

Admit __ **Deny X**

19. Admit you have no documentation justifying at least one visit to Plaintiff's home.

Admit ___ **Deny _X_**

20. Admit at least one visit occurred because of discussions with association counsel.

RESPONSE: This Request seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure or admission under Rule 36, Ariz. R. Civ. P.

Defendants further state that this action has been expressly designated a Tier 3 discovery case pursuant to Rule 26.2, Ariz. R. Civ. P., by the Superior Court's February 3, 2026 minute entry and Scheduling Order.

Accordingly, discovery in this matter is governed by Rule 26.2(f)(3), which limits each side in a Tier 3 case to twenty (20) Requests for Admissions, absent Court order permitting additional discovery for good cause shown.

To the extent Plaintiff's Requests for Admissions exceed the numerical limits permitted under Rule 26.2(f)(3), Defendants object and decline to respond to any such additional requests. Without waiving those objections, Defendants have responded only to the first twenty Requests for Admissions as required by the Arizona Rules of Civil Procedure. Defendants will not provide further responses or productions beyond those limits unless and until ordered by the Court.

NON-UNIFORM INTERROGATORIES

AS DIRECTED TO GARDENS GILBERT COMMUNITY ASSOCIATION

INTERROGATORY NO. 1

Identify all persons whom you believe have knowledge of any facts relevant to the claims or defenses asserted in this lawsuit, and state the facts each person is believed to know.

RESPONSE: Gardens Gilbert Community Association (hereafter, the "Association") Defendant refers to and incorporates by reference Section I(A) ("Witnesses") and Section I(B) ("Persons with Knowledge") of Defendants' First Supplemental Disclosure Statement to Amended

Complaint served pursuant to Rule 26.1, Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the persons known to Association Defendant to have knowledge of facts relevant to the claims and defenses in this action, as well as the general subject matter of such knowledge.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 2

Identify all persons whom you expect to call as witnesses at trial and state the subject matter on which each person is expected to testify.

RESPONSE: Association Defendant refers to and incorporates by reference Section I(A) ("Witnesses") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the individuals Association Defendant may call as witnesses at trial and states the subject matter on which each person is expected to testify.

Per Section I(D) ("Expert Witness Disclosure") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, at this time, Association Defendant does not expect to call any expert witnesses at trial.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 3

State the amount of any damages you claim in this lawsuit and describe the nature of those damages.

RESPONSE: Association Defendant does not assert any claim for damages in this action. As noted by the Court in its December 19, 2025 Minute Entry, "[Plaintiff] argues Defendants failed to disclose damage information - but to this Court's knowledge Defendant has not filed a counter-claim so Defendants are not seeking damages." Association Defendant reserves the right to seek taxable costs, attorneys' fees, and any other relief permitted by statute, rule, contract, or the Association's governing documents to the extent Association Defendant prevails.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 4

Identify all documents, electronic information, photographs, recordings, or other tangible evidence that you believe relate to any claim or defense in this lawsuit, including the location of such items and the name of the person having custody or control.

RESPONSE: Association Defendant refers to and incorporates by reference Section I(F) ("Documents and Tangible Evidence"), Section I(G) ("Electronically Stored Information"), and Section I(H) ("Insurance") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the categories of documents, electronically stored information, and tangible evidence known to Association Defendant that may relate to the claims or defenses in this action.

All documents and materials identified in Sections I(F)-(H) of Defendants' First Supplemental Disclosure Statement to Amended Complaint have been disclosed or otherwise produced to Plaintiff.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 5

Identify each insurance policy that may cover or indemnify you for the damages claimed in this lawsuit, including the carrier, policy number, limits, and coverage provisions.

RESPONSE: Association Defendant refers to and incorporates by reference Section I(H) ("Insurance") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify such insurance policies as requested.

Please also see documents previously produced bearing Bates numbers GARDENS0079-0197, which contain the responsive insurance policies.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 6

For each of Plaintiff's Requests for Admission that you denied, state all facts upon which you base your denial, identify all documents supporting your denial, and identify all witnesses with knowledge of the facts supporting your denial.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive recitation of all facts, documents, and witnesses supporting each denial to Plaintiff's Requests for Admission, many of which are vague and ambiguous. The Interrogatory further improperly seeks to require Association Defendant to marshal all evidence and legal theories supporting their defenses at this stage of the litigation.

Without waiving these objections, Association Defendant refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1, Ariz. R. Civ. P., including Sections identifying witnesses, documents, and electronically stored information, and potential subsequent Disclosure Statements, which set forth the persons, facts, and materials known to Association Defendant that relate to the claims and defenses in this action.

Association Defendant further state that its denials are based on the facts known to it following reasonable inquiry, including but not limited to the absence of any false or defamatory statements, the lack of improper conduct, and the circumstances surrounding communications and actions taken in connection with Association governance and Plaintiff's conduct.

Association Defendant further states that, pursuant to Rule 36(a)(5), Ariz. R. Civ. P., a party may deny a Request for Admission so long as the denial "fairly respond[s] to the substance of the matter," and the rules do not require a responding party to set forth all supporting facts, documents, or witnesses within the admission itself.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 7

Identify each person who prepared or assisted in preparing your answers to these interrogatories, including attorneys, staff, Board members, or employees.

RESPONSE: This Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure.

Without waiving the foregoing objection, Association Defendant states that these responses were prepared by undersigned counsel with input from the individual Defendants and, with respect to entity Defendants, their representatives, including individual Defendants, with knowledge of the relevant facts.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 8

If you intend to call any expert witness at trial, state the expert's name, subject matter, opinions, facts relied upon, and qualifications.

RESPONSE: Association Defendant refers to and incorporates by reference Section I(D) ("Expert Witness Disclosure") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P. and potential subsequent Disclosure Statements.

At this time, Association Defendant does not anticipate calling any expert witnesses at trial.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 9

If you are an organization, identify the officers, directors, managers, employees, agents, or representatives who provided information used in preparing your responses to these interrogatories.

RESPONSE: This Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure.

Without waiving the foregoing objection, Association Defendant states that, with respect to entity Defendants, these responses were prepared by undersigned counsel with input from authorized representatives of the entity Defendants, including individual Defendants, with knowledge of the relevant facts.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 10

Identify each of your defenses in this lawsuit and state the factual and legal basis for each defense.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive recitation of all defenses and all supporting facts and legal theories at this stage of the litigation. The Interrogatory further improperly seeks to require Association Defendant to marshal all evidence and legal arguments supporting their defenses.

Without waiving the foregoing objections, Association Defendant refers to and incorporates by reference Defendants' Partial Answer to Plaintiff's Amended Complaint, including all affirmative defenses asserted therein.

Association Defendant further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1, Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the facts, documents, and witnesses known to Association Defendant that relate to the claims and defenses in this action.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 11

Identify all roles you held within GGCA or Focus HOA Management from January 1, 2023 to present, including job titles, powers, enforcement authority, and decision-making responsibilities.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, vague, and not reasonably particularized, including as to the terms "powers," "enforcement authority," and "decision-making responsibilities," which call for legal conclusions and lack sufficient definition. Association Defendant further objects to the extent the Interrogatory seeks information regarding Focus HOA Management, LLC, as Association Defendant is a separate entity and does not hold roles within Focus HOA Management, LLC.

Without waiving the foregoing objections, Association Defendant states that, from January 1, 2023 to present, it has acted through its duly elected Board of Directors. The roles and responsibilities of the Board of Directors are defined by the Association's governing document and as laid out in Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1, Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identifies individuals and their roles relevant to this action.

Association Defendant's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 12

Identify all persons involved in decisions relating to Plaintiff, including enforcement, communications, records access, architectural decisions, elections, and any restrictions imposed.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all persons" involved in any decisions "relating to Plaintiff" across multiple expansive and undefined categories, including enforcement, communications, records access, architectural decisions, elections, and restrictions, without limitation to the claims or defenses at issue. The Interrogatory is further vague and ambiguous as to the scope of "decisions relating to Plaintiff" and is not reasonably particularized.

Without waiving the foregoing objections, Association Defendant refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identifies individuals known to Association Defendant to have knowledge of facts relevant to the claims and defenses in this action.

Association Defendant further states that decisions relating to Association governance and interactions with Plaintiff were made by the Association's board of directors and, where applicable, Focus HOA Management, LLC, personnel acting within the scope of their respective management roles and responsibilities. Association Defendant denies any implication that improper or unlawful "restrictions" were imposed upon Plaintiff.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 13

Describe all policies, procedures, or guidelines used when interacting with homeowners regarding records requests, violations, elections, or communications.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive description of "all policies, procedures, or guidelines" across multiple expansive categories, including records requests, violations, elections, and communications, without limitation to the claims or defenses at issue. The Interrogatory is further vague and ambiguous as to the terms "policies," "procedures," and "guidelines," and is not reasonably particularized.

Without waiving the foregoing objections, Association Defendant states that its interactions with Plaintiff, as a homeowner, are governed by the Association's governing documents, including its Declaration, Bylaws, and applicable rules and regulations, as well as applicable Arizona and federal statutes, case law, and standard management practices.

Association Defendant further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identifies documents and materials relating to the Association's governance, policies, and interactions with homeowners.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 14

Identify all persons who participated in or discussed actions involving Plaintiff, including Board members, employees, contractors, or the HOA attorney.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all persons" who "participated in or discussed" any actions involving Plaintiff, without limitation as to time, subject matter, or relevance to the claims and defenses at issue. The Interrogatory is further vague and ambiguous as to the terms "participated in" and "discussed," and is not reasonably particularized.

Association Defendant further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications with or involving counsel.

Without waiving the foregoing objections, Association Defendant refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identifies individuals known to Association Defendant to have knowledge of facts relevant to the claims and defenses in this action.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 15

Describe the complete process for responding to homeowner records requests under A.R.S. § 33-1805 and explain all reasons Plaintiff's requests were delayed, restricted, denied, or conditioned on additional requirements.

RESPONSE: Association Defendant objects to this Interrogatory on the grounds that it is compound, as it seeks both a comprehensive description of the "complete process" for responding to records requests and an explanation of all reasons Plaintiff's requests were allegedly "delayed, restricted, denied,

or conditioned," thereby combining multiple distinct inquiries into a single Interrogatory.

Association Defendant further objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a "complete process" without limitation and assumes facts not established, including that Plaintiff's requests were improperly delayed, restricted, denied, or conditioned. The Interrogatory is further vague and ambiguous as to the terms "complete process," "restricted," and "conditioned," and is not reasonably particularized.

Without waiving the foregoing objections, Association Defendant states that homeowner records requests are addressed in accordance with applicable Arizona law, including A.R.S. § 33-1805, the Association's governing documents, and standard management practices.

Association Defendant further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify information relating to Plaintiff's records requests and the Association's responses thereto.

Association Defendant denies any implication that Plaintiff's records requests were improperly handled and states that any actions taken with respect to such requests were reasonable, lawful, and consistent with applicable requirements.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 16

Identify all documents withheld, redacted, or delayed in response to Plaintiff's requests and state the reason for each.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all documents" and state the reason for each, thereby requiring Association Defendant to marshal all evidence and provide a document-by-document explanation at this stage of the litigation. The Interrogatory further assumes facts not established, including that documents were improperly withheld, redacted, or delayed.

Without waiving the foregoing objections, Association Defendant refers to and incorporates by reference Defendants' First Supplemental Disclosure

Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents relating to Plaintiff's records requests and the Association's responses thereto.

Association Defendant denies any implication that documents were improperly withheld, redacted, or delayed, and states that any responses to Plaintiff's requests were made in accordance with applicable law, the Association's governing documents, and standard management practices.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 17

Describe all decisions to impose "mail-only communication restrictions" on Plaintiff and identify any other homeowner ever subjected to such policy.

RESPONSE: Association Defendant objects to this Interrogatory on the grounds that it is compound, as it seeks both a description of decisions relating to Plaintiff and identification of other homeowners allegedly subjected to similar policies, thereby combining multiple distinct inquiries into a single Interrogatory.

Association Defendant further objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, including because it seeks to identify "any other homeowner ever" subjected to such a policy without limitation as to time, scope, or relevance. Association Defendant further objects on the grounds that the Interrogatory seeks information concerning third-party homeowners that is confidential and not subject to disclosure.

Association Defendant denies any implication that Plaintiff was subject to any improper or unlawful communication restriction and states that any communications with Plaintiff were conducted in a reasonable manner consistent with the Association's governing documents, applicable law, and standard management practices.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 18

Describe the standard process for submitting and reviewing architectural requests and identify where this process is published. Provide a physical copy.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it requests the production of a "physical copy," as such a request is improper in an interrogatory and is more appropriately the subject of a request for production under Rule 34, Ariz. R. Civ. P.

Subject to and without waiving this objection, Association Defendant states that the process for submitting and reviewing architectural requests is set forth in the Association's CC&Rs, which describe the requirements for submission, review, and approval by the Architectural Committee.

Association Defendant further states that these governing provisions have already been disclosed and produced. Please see documents bearing Bates numbers GARDENS0022-0024, which contain the relevant provisions in Article 4 of the CC&Rs governing Architectural and Landscaping Control, including the submission and approval process.

Association Defendant further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and any subsequent Disclosure Statements, which identify documents relating to the Association's architectural review process.

Association Defendant's investigation and discovery are ongoing, and it expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 19

Explain the handling of all architectural requests submitted by Plaintiff, including timelines, internal communications, and reasons for delay, denial, or non-processing.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive explanation of "all" architectural requests, including internal communications and alleged "delay, denial, or non-processing," and thereby improperly requires Association Defendant to marshal all facts and evidence at this stage of the litigation. The Interrogatory further assumes facts not established, including that Plaintiff's requests were improperly delayed, denied, or not processed.

Association Defendant further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including internal and attorney communications.

Without waiving the foregoing objections, Association Defendant refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and individuals relating to Plaintiff's architectural requests and the Association's responses thereto.

Association Defendant states that Plaintiff submitted multiple architectural requests regarding the subject improvement. The first request was received via email on May 14, 2025. Upon review, the request was determined to be incomplete and not ready for board consideration. The request was denied the same day, with notice provided identifying the deficiencies.

A second request was submitted on June 2, 2025. This submission was also incomplete. The Association issued a denial the same day, advising Plaintiff that additional information was required, including sample images of the proposed windows and the color of the glass.

A third request was submitted on June 13, 2025, which included the requested supplemental information. This request was deemed complete and was submitted to the board for review. The board unanimously approved the request, and an approval letter was issued on June 16, 2025.

Association Defendant further states that Plaintiff's architectural requests, to the extent submitted, were addressed in accordance with the Association's governing documents and applicable law, and denies any implication that such requests were improperly handled.

See also Interrogatory Responses No. 16 and 18, which are incorporated herein by reference.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 20

Identify all persons who instructed or participated in delaying, denying, or obstructing Plaintiff's emergency architectural requests.

RESPONSE: Association Defendant objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all persons" allegedly involved in "delaying, denying, or obstructing" Plaintiff's requests, and thereby assumes facts not established, including that any such improper conduct occurred. The Interrogatory is further vague and ambiguous as to the term "emergency architectural requests" and is not reasonably particularized.

Association Defendant further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications with or involving counsel.

Without waiving the foregoing objections, Association Defendant refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify individuals and documents relating to Plaintiff's architectural requests and the Association's responses thereto.

Association Defendant denies any implication that Plaintiff's architectural requests were improperly delayed, denied, or obstructed, and states that any actions taken were consistent with the Association's governing documents and applicable law.

See also Interrogatory Responses Nos. 16, and 18-19, which are incorporated herein by reference.

Association Defendant's investigation and discovery are ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

Defendants further state that this action has been expressly designated a Tier 3 discovery case pursuant to Rule 26.2, Ariz. R. Civ. P., by the Superior Court's February 3, 2026 minute entry and Scheduling Order.

Accordingly, discovery in this matter is governed by Rule 26.2(f)(3), which limits each side in a Tier 3 case to twenty (20) Requests for Interrogatories, absent Court order permitting additional discovery for good cause shown.

To the extent Plaintiff's Requests for Interrogatories to Association Defendant exceed the numerical limits permitted under Rule 26.2(f)(3), Association Defendant objects and declines to respond to any such additional requests. Without waiving those objections, Association Defendant has responded only to the first twenty Requests for Interrogatories as required by the Arizona Rules of Civil Procedure. Association Defendant will not

provide further responses or productions beyond those limits unless and until ordered by the Court.

NON-UNIFORM INTERROGATORIES AS DIRECTED TO BROOKE SORTOR

INTERROGATORY NO. 1

Identify all persons whom you believe have knowledge of any facts relevant to the claims or defenses asserted in this lawsuit, and state the facts each person is believed to know.

RESPONSE: Defendant Brooke Sortor (hereafter, "Defendant Sortor") refers to and incorporates by reference Section I(A) ("Witnesses") and Section I(B) ("Persons with Knowledge") of Defendants' First Supplemental Disclosure Statement to Amended Complaint served pursuant to Rule 26.1, Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the persons known to Defendant Sortor to have knowledge of facts relevant to the claims and defenses in this action, as well as the general subject matter of such knowledge.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 2

Identify all persons whom you expect to call as witnesses at trial and state the subject matter on which each person is expected to testify.

RESPONSE: Defendant Sortor refers to and incorporates by reference Section I(A) ("Witnesses") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the individuals Defendants may call as witnesses at trial and states the subject matter on which each person is expected to testify.

Per Section I(D) ("Expert Witness Disclosure") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, at this time, Defendants do not expect to call any expert witnesses at trial.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 3

State the amount of any damages you claim in this lawsuit and describe the nature of those damages.

RESPONSE: Defendant Sortor does not assert any claim for damages in this action. As noted by the Court in its December 19, 2025 Minute Entry, "[Plaintiff] argues Defendants failed to disclose damage information - but to this Court's knowledge Defendant has not filed a counter-claim so Defendants are not seeking damages." Defendant Sortor reserves the right to seek taxable costs, attorneys' fees, and any other relief permitted by statute, rule, contract, or the Association's governing documents to the extent Defendant Sortor prevails.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 4

Identify all documents, electronic information, photographs, recordings, or other tangible evidence that you believe relate to any claim or defense in this lawsuit, including the location of such items and the name of the person having custody or control.

RESPONSE: Defendant Brooke refers to and incorporates by reference Section I(F) ("Documents and Tangible Evidence"), Section I(G) ("Electronically Stored Information"), and Section I(H) ("Insurance") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the categories of documents, electronically stored information, and tangible evidence known to Defendant Brooke that may relate to the claims or defenses in this action.

All documents and materials identified in Sections I(F)-(H) of Defendants' First Supplemental Disclosure Statement to Amended Complaint have been disclosed or otherwise produced to Plaintiff.

Defendant Brooke's investigation and discovery is ongoing. Defendant Brooke expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 5

Identify each insurance policy that may cover or indemnify you for the damages claimed in this lawsuit, including the carrier, policy number, limits, and coverage provisions.

RESPONSE: Defendant Sortor refers to and incorporates by reference Section I(H) ("Insurance") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify such insurance policies as requested.

Please also see documents previously produced bearing Bates numbers GARDENS0079-0197, which contain the responsive insurance policies.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 6

For each of Plaintiff's Requests for Admission that you denied, state all facts upon which you base your denial, identify all documents supporting your denial, and identify all witnesses with knowledge of the facts supporting your denial.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive recitation of all facts, documents, and witnesses supporting each denial to Plaintiff's Requests for Admission, many of which are vague and ambiguous. The Interrogatory further improperly seeks to require Defendant Sortor to marshal all evidence and legal theories supporting their defenses at this stage of the litigation.

Without waiving these objections, Defendant Sortor refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1, Ariz. R. Civ. P., including Sections identifying witnesses, documents, and electronically stored information, and potential subsequent Disclosure Statements, which set forth the persons, facts, and materials known to Defendant Sortor that relate to the claims and defenses in this action.

Defendant Sortor further states that its denials are based on the facts known to it following reasonable inquiry, including but not limited to the absence of

any false or defamatory statements, the lack of improper conduct, and the circumstances surrounding communications and actions taken in connection with Association governance and Plaintiff's conduct.

Defendant Sortor further states that, pursuant to Rule 36(a)(5), Ariz. R. Civ. P., a party may deny a Request for Admission so long as the denial "fairly respond[s] to the substance of the matter," and the rules do not require a responding party to set forth all supporting facts, documents, or witnesses within the admission itself.

Defendant Sortor's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 7

Identify each person who prepared or assisted in preparing your answers to these interrogatories, including attorneys, staff, Board members, or employees.

RESPONSE: This Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure.

Without waiving the foregoing objection, Defendant Sortor states that these responses were prepared by undersigned counsel with input from the individual Defendants and, with respect to entity Defendants, their representatives with knowledge of the relevant facts.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 8

If you intend to call any expert witness at trial, state the expert's name, subject matter, opinions, facts relied upon, and qualifications.

RESPONSE: Defendant Sortor refers to and incorporates by reference Section I(D) ("Expert Witness Disclosure") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P. and potential subsequent Disclosure Statements.

At this time, Defendant Sortor does not anticipate calling any expert witnesses at trial.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 9

If you are an organization, identify the officers, directors, managers, employees, agents, or representatives who provided information used in preparing your responses to these interrogatories.

RESPONSE: Defendant Sortor objects to this Interrogatory on the grounds that it is inapplicable as drafted, as it is directed to an organization, and Defendant Sortor is an individual.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 10

Identify each of your defenses in this lawsuit and state the factual and legal basis for each defense.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive recitation of all defenses and all supporting facts and legal theories at this stage of the litigation. The Interrogatory further improperly seeks to require Defendant Sortor to marshal all evidence and legal arguments supporting their defenses.

Without waiving the foregoing objections, Defendant Sortor refers to and incorporates by reference Defendants' Partial Answer to Plaintiff's Amended Complaint, including all affirmative defenses asserted therein.

Defendant Sortor further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1, Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the facts, documents, and witnesses known to Defendant Sortor that relate to the claims and defenses in this action.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 11

Identify all roles you held within GGCA or Focus HOA Management from January 1, 2023 to present, including job titles, powers, enforcement authority, and decision-making responsibilities.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, vague, and not reasonably particularized, including as to the terms "powers," "enforcement authority," and "decision-making responsibilities," which call for legal conclusions and lack sufficient definition. Defendant Sortor further objects to the extent the Interrogatory seeks information beyond that relevant and proportional to the claims and defenses in this action.

Without waiving the foregoing objections, Defendant Sortor states that, from January 1, 2023 to present, she has been employed by Focus HOA Management, LLC in her capacity as a community manager, performing duties consistent with that position.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 12

Identify all persons involved in decisions relating to Plaintiff, including enforcement, communications, records access, architectural decisions, elections, and any restrictions imposed.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all persons" involved in any decisions "relating to Plaintiff" across multiple expansive and undefined categories without limitation to the claims or defenses at issue. The Interrogatory is further vague and ambiguous and not reasonably particularized.

Without waiving the foregoing objections, Defendant Sortor refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify

individuals known to Defendant Sortor to have knowledge of facts relevant to the claims and defenses in this action. To the extent any actions characterized by Plaintiff as "restrictions" are at issue, such actions were undertaken in accordance with the Association's governing documents and applicable law.

Defendant Sortor further states that any actions relating to Plaintiff were undertaken, where applicable, in her capacity as a management representative acting within the scope of her role with Focus HOA Management, LLC. Defendant Sortor denies any implication that improper or unlawful "restrictions" were imposed upon Plaintiff.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 13

Describe all policies, procedures, or guidelines used when interacting with homeowners regarding records requests, violations, elections, or communications.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive description of "all policies, procedures, or guidelines" across multiple expansive categories. The Interrogatory is further vague and ambiguous and not reasonably particularized.

Without waiving the foregoing objections, Defendant Sortor states that interactions with homeowners are conducted in accordance with the Association's governing documents, applicable Arizona and federal statutory law, case law, and standard management practices.

Defendant Sortor further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and materials relating to such interactions.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 14

Identify all persons who participated in or discussed actions involving Plaintiff, including Board members, employees, contractors, or the HOA attorney.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all persons" who "participated in or discussed" any actions involving Plaintiff without limitation. The Interrogatory is further vague and ambiguous and not reasonably particularized.

Defendant Sortor further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P.

Without waiving the foregoing objections, Defendant Sortor refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify individuals known to have knowledge of facts relevant to the claims and defenses in this action.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 15

Describe the complete process for responding to homeowner records requests under A.R.S. § 33-1805 and explain all reasons Plaintiff's requests were delayed, restricted, denied, or conditioned on additional requirements.

RESPONSE: Defendant Sortor objects to this Interrogatory on the grounds that it is compound, as it seeks both a comprehensive description of the "complete process" for responding to records requests and an explanation of all reasons Plaintiff's requests were allegedly "delayed, restricted, denied, or conditioned," thereby combining multiple distinct inquiries into a single Interrogatory.

Defendant Sortor further objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a "complete process" without limitation and assumes facts not established, including that Plaintiff's requests were improperly delayed, restricted, denied, or conditioned. The Interrogatory is further vague and ambiguous as to the terms "complete process," "restricted," and "conditioned," and is not reasonably particularized.

Without waiving the foregoing objections, Defendant Sortor states that homeowner records requests are addressed in accordance with applicable

Arizona law, including A.R.S. § 33-1805, the Association's governing documents, and standard management practices.

Defendant Sortor further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify information relating to Plaintiff's records requests and the Association's responses thereto.

Defendant Sortor denies any implication that Plaintiff's records requests were improperly handled and states that any actions taken with respect to such requests were reasonable, lawful, and consistent with applicable requirements.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 16

Identify all documents withheld, redacted, or delayed in response to Plaintiff's requests and state the reason for each.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all documents" and state the reason for each, thereby requiring Defendant Sortor to marshal all evidence and provide a document-by-document explanation at this stage of the litigation. The Interrogatory further assumes facts not established, including that documents were improperly withheld, redacted, or delayed.

Without waiving the foregoing objections, Defendant Sortor refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents relating to Plaintiff's records requests and the Association's responses thereto.

Defendant Sortor denies any implication that documents were improperly withheld, redacted, or delayed, and states that any responses to Plaintiff's requests were made in accordance with applicable law, the Association's governing documents, and standard management practices.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 17

Describe all decisions to impose "mail-only communication restrictions" on Plaintiff and identify any other homeowner ever subjected to such policy.

RESPONSE: Defendant Sortor objects to this Interrogatory on the grounds that it is compound, as it seeks both a description of decisions relating to Plaintiff and identification of other homeowners allegedly subjected to similar policies, thereby combining multiple distinct inquiries into a single Interrogatory.

Defendant Sortor further objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, including because it seeks to identify "any other homeowner ever" subjected to such a policy without limitation as to time, scope, or relevance. Defendant Sortor further objects on the grounds that the Interrogatory seeks information concerning third-party homeowners that is confidential and not subject to disclosure.

Defendant Sortor denies any implication that Plaintiff was subject to any improper or unlawful communication restriction and states that any communications with Plaintiff were conducted in a reasonable manner consistent with the Association's governing documents, applicable law, and standard management practices.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 18

Describe the standard process for submitting and reviewing architectural requests and identify where this process is published. Provide a physical copy.

RESPONSE: Defendant Sortor states that the process for submitting and reviewing architectural requests is set forth in the Association's governing documents, including the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460 ("CC&Rs"), which describe the requirements for submission, review, and approval by the Architectural Committee.

Defendant Sortor further states that these governing provisions have been previously disclosed and produced. Please see documents bearing Bates numbers GARDENS0022-0024, which contain the relevant provisions in

Article 4 of the CC&Rs governing Architectural and Landscaping Control, including the submission and approval process.

Defendant Sortor further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents relating to the Association's architectural review process.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 19

Explain the handling of all architectural requests submitted by Plaintiff, including timelines, internal communications, and reasons for delay, denial, or non-processing.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks internal communications and alleged "delay, denial, or non-processing," and thereby improperly requires Defendant Sortor to marshal all facts and evidence at this stage of the litigation. The Interrogatory further assumes facts not established, including that Plaintiff's requests were improperly delayed, denied, or not processed.

Defendant Sortor further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including internal and attorney communications.

Without waiving the foregoing objections, Defendant Sortor refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and individuals relating to Plaintiff's architectural requests and the Association's responses thereto.

Defendant Sortor states that Plaintiff submitted multiple architectural requests regarding the subject improvement. The first request was received via email on May 14, 2025. Upon review, the request was determined to be incomplete and not ready for board consideration. The request was denied the same day, with notice provided identifying the deficiencies.

A second request was submitted on June 2, 2025. This submission was also incomplete. The Association issued a denial the same day, advising Plaintiff

that additional information was required, including sample images of the proposed windows and the color of the glass.

A third request was submitted on June 13, 2025, which included the requested supplemental information. This request was deemed complete and was submitted to the board for review. The board unanimously approved the request, and an approval letter was issued on June 16, 2025.

Defendant Sortor further states that Plaintiff's architectural requests, to the extent submitted, were addressed in accordance with the Association's governing documents and applicable law, and denies any implication that such requests were improperly handled.

See also Interrogatory Responses No. 16 and 18, which are incorporated herein by reference.

Defendant Sortor's investigation and discovery is ongoing. Defendant Sortor expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 20

Identify all persons who instructed or participated in delaying, denying, or obstructing Plaintiff's emergency architectural requests.

RESPONSE: Defendant Sortor objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to identify "all persons" allegedly involved in "delaying, denying, or obstructing" Plaintiff's requests, and thereby assumes facts not established, including that any such improper conduct occurred. The Interrogatory is further vague and ambiguous as to the term "emergency architectural requests" and is not reasonably particularized.

Defendant Sortor further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications with or involving counsel.

Without waiving the foregoing objections, Defendant Sortor refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify individuals and documents relating to Plaintiff's architectural requests and the Association's responses thereto.

Defendant Sortor denies any implication that Plaintiff's architectural requests were improperly delayed, denied, or obstructed, and states that any actions taken were consistent with the Association's governing documents and applicable law.

See also Interrogatory Responses Nos. 16, and 18-19, which are incorporated herein by reference.

Defendant Sortor's investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

Defendant Sortor further states that this action has been expressly designated a Tier 3 discovery case pursuant to Rule 26.2, Ariz. R. Civ. P., by the Superior Court's February 3, 2026 minute entry and Scheduling Order.

Accordingly, discovery in this matter is governed by Rule 26.2(f)(3), which limits each side in a Tier 3 case to twenty (20) Requests for Interrogatories, absent Court order permitting additional discovery for good cause shown.

To the extent Plaintiff's Requests for Interrogatories to Defendant Sortor exceed the numerical limits permitted under Rule 26.2(f)(3), Defendant Sortor objects and declines to respond to any such additional requests. Without waiving those objections, Defendant Sortor has responded only to the first twenty Requests for Interrogatories as required by the Arizona Rules of Civil Procedure. Defendant Sortor will not provide further responses or productions beyond those limits unless and until ordered by the Court.

NON-UNIFORM INTERROGATORIES

AS DIRECTED TO HARMAN CADIS

INTERROGATORY NO. 1

Identify all persons whom you believe have knowledge of any facts relevant to the claims or defenses asserted in this lawsuit, and state the facts each person is believed to know.

RESPONSE: Defendant Harman Cadis (hereafter, "Defendant Cadis") refer to and incorporate by reference Section I(A) ("Witnesses") and Section I(B) ("Persons with Knowledge") of Defendants' First Supplemental Disclosure Statement to Amended Complaint served pursuant to Rule 26.1, Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the persons known to Defendant Cadis to have knowledge of facts relevant to

the claims and defenses in this action, as well as the general subject matter of such knowledge.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 2

Identify all persons whom you expect to call as witnesses at trial and state the subject matter on which each person is expected to testify.

RESPONSE: Defendant Cadis refers to and incorporates by reference Section I(A) ("Witnesses") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the individuals Defendants may call as witnesses at trial and states the subject matter on which each person is expected to testify.

Per Section I(D) ("Expert Witness Disclosure") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, at this time, Defendants do not expect to call any expert witnesses at trial.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 3

State the amount of any damages you claim in this lawsuit and describe the nature of those damages.

RESPONSE: Defendant Cadis does not assert any claim for damages in this action. As noted by the Court in its December 19, 2025 Minute Entry, "[Plaintiff] argues Defendants failed to disclose damage information - but to this Court's knowledge Defendant has not filed a counter-claim so Defendants are not seeking damages." Defendant Cadis reserves the right to seek taxable costs, attorneys' fees, and any other relief permitted by statute, rule, contract, or the Association's governing documents to the extent Defendant Cadis prevails.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 4

Identify all documents, electronic information, photographs, recordings, or other tangible evidence that you believe relate to any claim or defense in this lawsuit, including the location of such items and the name of the person having custody or control.

RESPONSE: Defendant Cadis refers to and incorporates by reference Section I(F) ("Documents and Tangible Evidence"), Section I(G) ("Electronically Stored Information"), and Section I(H) ("Insurance") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the categories of documents, electronically stored information, and tangible evidence known to Defendant Cadis that may relate to the claims or defenses in this action.

All documents and materials identified in Sections I(F)-(H) of Defendants' First Supplemental Disclosure Statement to Amended Complaint have been disclosed or otherwise produced to Plaintiff.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 5

Identify each insurance policy that may cover or indemnify you for the damages claimed in this lawsuit, including the carrier, policy number, limits, and coverage provisions.

RESPONSE: Defendant Cadis refers to and incorporates by reference Section I(H) ("Insurance") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify such insurance policies as requested.

Please also see documents previously produced bearing Bates numbers GARDENS0079-0197, which contain the responsive insurance policies.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 6

For each of Plaintiff's Requests for Admission that you denied, state all facts upon which you base your denial, identify all documents supporting your denial, and identify all witnesses with knowledge of the facts supporting your denial.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive recitation of all facts, documents, and witnesses supporting each denial to Plaintiff's Requests for Admission, many of which are vague and ambiguous. The Interrogatory further improperly seeks to require Defendant Cadis to marshal all evidence and legal theories supporting their defenses at this stage of the litigation.

Without waiving these objections, Defendant Cadis refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1, Ariz. R. Civ. P., including Sections identifying witnesses, documents, and electronically stored information, and potential subsequent Disclosure Statements, which set forth the persons, facts, and materials known to Defendant Cadis that relate to the claims and defenses in this action.

Defendant Cadis further states that its denials are based on the facts known to it following reasonable inquiry, including but not limited to the absence of any false or defamatory statements, the lack of improper conduct, and the circumstances surrounding communications and actions taken in connection with Association governance and Plaintiff's conduct.

Defendant Cadis further states that, pursuant to Rule 36(a)(5), Ariz. R. Civ. P., a party may deny a Request for Admission so long as the denial "fairly respond[s] to the substance of the matter," and the rules do not require a responding party to set forth all supporting facts, documents, or witnesses within the admission itself.

Defendant Cadis' investigation and discovery is ongoing. Association Defendant expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 7

Identify each person who prepared or assisted in preparing your answers to these interrogatories, including attorneys, staff, Board members, or employees.

RESPONSE: This Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications and actions undertaken by counsel in the course of legal representation. Such privileged matters are not subject to disclosure.

Without waiving the foregoing objection, Defendant Cadis states that these responses were prepared by undersigned counsel with input from the individual Defendants and, with respect to entity Defendants, their representatives, including individual Defendants, with knowledge of the relevant facts.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 8

If you intend to call any expert witness at trial, state the expert's name, subject matter, opinions, facts relied upon, and qualifications.

RESPONSE: Defendant Cadis refers to and incorporates by reference Section I(D) ("Expert Witness Disclosure") of Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P. and potential subsequent Disclosure Statements.

At this time, Defendant Cadis does not anticipate calling any expert witnesses at trial.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 9

If you are an organization, identify the officers, directors, managers, employees, agents, or representatives who provided information used in preparing your responses to these interrogatories.

RESPONSE: Defendant Cadis objects to this Interrogatory on the grounds that it is inapplicable as drafted, as it is directed to an organization, and Defendant Cadis is an individual.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 10

Identify each of your defenses in this lawsuit and state the factual and legal basis for each defense.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive recitation of all defenses and all supporting facts and legal theories at this stage of the litigation. The Interrogatory further improperly seeks to require Defendant Cadis to marshal all evidence and legal arguments supporting their defenses.

Without waiving the foregoing objections, Defendant Cadis refers to and incorporates by reference Defendants' Partial Answer to Plaintiff's Amended Complaint, including all affirmative defenses asserted therein.

Defendant Cadis further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1, Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify the facts, documents, and witnesses known to Defendant Cadis that relate to the claims and defenses in this action.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 11

State all positions you have held at Focus HOA Management, LLC from January 1, 2023 to present, including job titles, duties, enforcement authority, and supervisory responsibilities.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, vague, and not reasonably particularized, including as to the terms "duties," "enforcement authority," and "supervisory responsibilities," which call for legal conclusions and lack sufficient definition. Defendant Cadis further objects to the extent the Interrogatory seeks information beyond that relevant and proportional to the claims and defenses in this action.

Without waiving the foregoing objections, Defendant Cadis states that, from January 1, 2023 to present, he has been employed by Focus HOA Management, LLC as a community manager. Defendant Cadis further states that he is the owner of Focus HOA Management, LLC, and performs duties consistent with those roles.

Defendant Cadis' investigation and discovery are ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 12

Identify all persons who reported to you or worked under your authority with respect to the Gardens Gilbert Community Association ("GGCA"), including their job duties.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is vague, overly broad, and not reasonably particularized, including as to the terms "reported to you" and "worked under your authority," which are undefined and may call for legal conclusions regarding the nature and scope of any authority. Defendant Cadis further objects to the extent the Interrogatory assumes facts not established, including that individuals "reported to" or were subject to his authority.

Without waiving the foregoing objections, Defendant Cadis states that he was employed by Focus HOA Management, LLC and, in that capacity, performed duties consistent with his role as a community manager. Defendant Cadis did not employ GGCA personnel and did not have independent authority over Association Board members.

Defendant Cadis further states that, to the extent any individuals worked in coordination with him in connection with GGCA, such individuals did so within their respective roles with Focus HOA Management, LLC or the Association, and not as subordinates under his direct authority.

Defendant Cadis further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify individuals and their roles relevant to this action.

Defendant Cadis's investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 13

Describe all legal, contractual, or delegated authority you exercised over GGCA decision-making, enforcement, records, elections, communications, or architectural matters.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive description of "all legal, contractual, or delegated authority" across multiple expansive categories. The Interrogatory is further vague and ambiguous as to the terms "authority" and "exercised," and calls for legal conclusions regarding the nature and scope of any authority.

Without waiving the foregoing objections, Defendant Cadis states that he was employed by Focus HOA Management, LLC and, in that capacity, performed duties consistent with his role as a community manager. Defendant Cadis did not possess independent decision-making authority over the Association and did not exercise authority beyond that delegated in the ordinary course of providing management services.

Defendant Cadis further states that any actions taken in connection with GGCA were undertaken in coordination with and subject to the direction of the Association's Board of Directors and in accordance with the Association's governing documents and applicable law.

Defendant Cadis further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and materials relating to such interactions.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 14

Identify all communications, emails, texts, calls, notes, meetings, or messages, in which you discussed Plaintiff Sandra Rodriguez.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks to

identify "all communications" in any form without limitation as to time, subject matter, or relevance to the claims and defenses at issue. The Interrogatory is further vague and ambiguous as to the scope of "communications" and is not reasonably particularized.

Defendant Cadis further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P., including communications with or involving counsel.

Without waiving the foregoing objections, Defendant Cadis refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and communications relating to the claims and defenses in this action.

Defendant Cadis further states that, to the extent he was involved in communications concerning Plaintiff, any such communications were made in the course of his duties as a community manager for Focus HOA Management, LLC and in coordination with the Association's Board of Directors and management personnel.

Defendant Cadis' investigation and discovery are ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 15

Identify all complaints, concerns, allegations, or reports you received or discussed concerning Plaintiff and state what you did in response.

> **RESPONSE:** Defendant Cadis objects to this Interrogatory on the grounds that it is compound, as it seeks both identification of "all complaints, concerns, allegations, or reports" and a description of actions taken in response, thereby combining multiple distinct inquiries into a single Interrogatory.

Defendant Cadis further objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks "all" such matters without limitation as to time, subject matter, or relevance. The Interrogatory is further vague and ambiguous as to the terms "concerns," "allegations," and "reports," and is not reasonably particularized.

Defendant Cadis further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P.

Without waiving the foregoing objections, Defendant Cadis refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and individuals relating to communications and matters involving Plaintiff.

Defendant Cadis further states that, to the extent he was involved in any matters concerning Plaintiff, any actions taken were performed in his capacity as a community manager for Focus HOA Management, LLC and were undertaken in coordination with and subject to the direction of the Association's Board of Directors and in accordance with the Association's governing documents and applicable law.

Defendant Cadis' investigation and discovery are ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 16

State all accusations of misconduct, fraud, harassment, or wrongdoing made about Plaintiff that you reviewed or participated in.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks identification of "all accusations" without limitation as to time, source, or relevance to the claims and defenses at issue. The Interrogatory is further vague and ambiguous as to the terms "accusations," "misconduct," "harassment," and "wrongdoing," and assumes facts not established, including that such accusations were made or that Defendant Cadis reviewed or participated in them.

Defendant Cadis further objects to the extent this Interrogatory seeks information protected by the attorney-client privilege under A.R.S. § 12-2234 and the attorney work product doctrine under Rule 26(b)(3), Ariz. R. Civ. P.

Without waiving the foregoing objections, Defendant Cadis refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and communications relating to the claims and defenses in this action.

Defendant Cadis further states that, to the extent he was involved in any communications concerning Plaintiff, such communications were made in the course of his duties as a community manager for Focus HOA Management, LLC and in coordination with the Association's Board of Directors. Defendant Cadis denies any implication that he made or participated in any false or improper accusations regarding Plaintiff.

Defendant Cadis' investigation and discovery are ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 17

Describe how you handled Plaintiff's records requests under A.R.S. § 33-1805, including all delays, denials, restrictions, or conditions imposed.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, as it seeks a comprehensive narrative regarding all records requests, including alleged delays, denials, restrictions, or conditions, and thereby improperly requires Defendant Cadis to marshal all facts and evidence at this stage of the litigation. The Interrogatory further assumes facts not established, including that Plaintiff's records requests were improperly delayed, denied, restricted, or conditioned.

Without waiving the foregoing objections, Defendant Cadis states that, to the extent he was involved in responding to any records requests, such involvement was undertaken in his capacity as a community manager for Focus HOA Management, LLC and in coordination with and subject to the direction of the Association's Board of Directors, and in accordance with applicable law, including A.R.S. § 33-1805, the Association's governing documents, and standard management practices.

Defendant Cadis further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify documents and individuals relating to Plaintiff's records requests and the responses thereto.

Defendant Cadis denies any implication that Plaintiff's records requests were improperly handled.

Defendant Cadis' investigation and discovery are ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 18

Identify all individuals who participated in decisions to withhold, delay, or restrict Plaintiff's records requests.

RESPONSE: Without waiving the foregoing objections, Defendant Cadis states that he is not aware of any individuals who participated in decisions to improperly withhold, delay, or restrict Plaintiff's records requests.

Defendant Cadis further states that, to the extent any actions were taken in connection with Plaintiff's records requests, such actions were undertaken in accordance with applicable law, including A.R.S. § 33-1805, and in coordination with and subject to the direction of the Association's Board of Directors.

Defendant Cadis further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify individuals and documents relating to Plaintiff's records requests and the responses thereto.

Defendant Cadis' investigation and discovery are ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 19

Explain the origin, purpose, and approval of the "mail-only communication restrictions" imposed on Plaintiff, and identify any other homeowner ever subjected to such policy.

RESPONSE: Defendant Cadis objects to this Interrogatory on the grounds that it is compound, as it seeks a description of the alleged origin, purpose, and approval of purported "mail-only communication restrictions," as well as identification of other homeowners allegedly subjected to such policies, thereby combining multiple distinct inquiries into a single Interrogatory.

Defendant Cadis further objects to this Interrogatory to the extent it is overly broad, unduly burdensome, and not proportional to the needs of the case, including because it seeks to identify "any other homeowner ever" subjected to such a policy without limitation as to time, scope, or relevance. Defendant Cadis further objects on the grounds that the Interrogatory seeks information concerning third-party homeowners that is confidential and not subject to disclosure.

Defendant Cadis denies any implication that Plaintiff was subject to any improper or unlawful communication restriction and states that any communications with Plaintiff were conducted in a reasonable manner consistent with the Association's governing documents, applicable law, and standard management practices.

Defendant Cadis' investigation and discovery is ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

INTERROGATORY NO. 20

Describe the standard ARC/ACC process used by GGCA for all homeowners and identify where the process is published.

RESPONSE: Defendant Cadis objects to this Interrogatory to the extent it is overly broad, vague, and not reasonably particularized, including as to the term "standard ARC/ACC process."

Without waiving the foregoing objections, Defendant Cadis states that the process for submitting and reviewing architectural requests is set forth in the CC&Rs, which describe the requirements for submission, review, and approval by the Architectural Control Committee.

Defendant Cadis further states that these governing provisions have been previously disclosed and produced. Please see documents bearing Bates numbers GARDENS0022-0024, which contain the relevant provisions governing architectural and landscaping control, including the submission and approval process.

Defendant Cadis further refers to and incorporates by reference Defendants' First Supplemental Disclosure Statement to Amended Complaint, served

pursuant to Rule 26.1(a), Ariz. R. Civ. P., and potential subsequent Disclosure Statements, which identify information relating to the Association's architectural review process.

Defendant Cadis' investigation and discovery are ongoing. Defendant Cadis expressly reserves the right to supplement this response in accordance with Rule 26(g), Ariz. R. Civ. P.

Defendant Cadis further states that this action has been expressly designated a Tier 3 discovery case pursuant to Rule 26.2, Ariz. R. Civ. P., by the Superior Court's February 3, 2026 minute entry and Scheduling Order.

Accordingly, discovery in this matter is governed by Rule 26.2(f)(3), which limits each side in a Tier 3 case to twenty (20) Requests for Interrogatories, absent Court order permitting additional discovery for good cause shown.

To the extent Plaintiff's Requests for Interrogatories to Defendant Cadis exceed the numerical limits permitted under Rule 26.2(f)(3), Defendant Cadis objects and declines to respond to any such additional requests. Without waiving those objections, Defendant Cadis has responded only to the first twenty Requests for Interrogatories as required by the Arizona Rules of Civil Procedure. Defendant Cadis will not provide further responses or productions beyond those limits unless and until ordered by the Court.

DATED this 13th day of April 2026.

SHAW & LINES, LLC

/s/ Dominick D. Detente
Augustus H. Shaw IV, Esq.
Dominick D. Detente, Esq.
1490 South Price Road, Suite 318
Chandler, Arizona 85286
Counsel for Defendants

ORIGINAL e-mailed and mailed this
13th day of April 2026 to:

Sandra Rodriguez
4735 E Besty Lane
Gilbert, Arizona 85296
sandra.rodriguez0339@gmail.com
Plaintiff, Pro Per

By: /s/ Diane Fincher

CV2024-005940

2 of 2

EXHIBIT 17

Gmail

Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Response Joint Request and Certification of Readiness for Settlement Conference and CEASE AND DESIST (Email Abuse)

Sandra Rodriguez <sandra.rodriguez0339@gmail.com> Wed, Apr 22, 2026 at 3:58 PM
To: Dominick Détente <Dominick@shawlines.com>
Cc: Augustus Shaw <ashaw@shawlines.com>
Bcc: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Dear Mr. Dente,

The proposed Joint Request and Certification contains material inaccuracies and does not reflect the current procedural posture of this case.

The Court's February 2, 2026 Scheduling Order requires only that the parties participate in a settlement conference before July 31, 2026, and certify readiness by April 30, 2026. It does not authorize unsupported representations regarding readiness or the status of settlement efforts.

Under Administrative Order No. 2023-009 and Rule 16, Ariz. R. Civ. P., any certification requires that (1) discovery and disclosure necessary to meaningfully engage in settlement be complete, (2) there are no pending discovery disputes, and (3) the parties have engaged in good-faith settlement discussions.

Those conditions are not satisfied here. Defendants have not provided full Rule 26.1 disclosures or complete responses under Rules 33, 34, and 36, and discovery disputes remain ongoing. As a result, the matter is not in a posture where a meaningful settlement conference can occur.

Further, Plaintiff has made multiple attempts to initiate settlement discussions, which have not resulted in substantive engagement. Accordingly, any representation that prior good-faith settlement efforts have been completed would be inaccurate.

Plaintiff has not agreed to private mediation, and the Court's Order does not require it. Inclusion of such language in a joint filing is not supported by the Court's directive or the governing procedures.

As discussed during the March 25, 2026 meet-and-confer with Augustus H. Shaw IV, I am willing to proceed with a filing that accurately reflects each party's respective position. Please provide Defendants' position, and I will include Plaintiff's position to ensure the record is complete and accurate before filing the document on behalf of both parties. I have also separately contacted lead counsel, Augustus H. Shaw IV, proposing a meet-and-confer on April 28, 2026 to further address this issue.

Given the April 30, 2026 deadline, Plaintiff will proceed with a filing that complies with the Court's Order and accurately reflects the current status of discovery and settlement efforts.

Please provide Defendants' proposed language limited to your position.

Sincerely,

Sandra Rodriguez

On Tue, Apr 21, 2026, 4:26 PM Dominick Détente <Dominick@shawlines.com> wrote:

> Good afternoon Ms. Rodriguez,
>
> Attached please find the Joint Request and Certification of Readiness for Setting Settlement Conference Under Rule 16(i), Ariz. R. Civ. P.

Pursuant to the Court's February 3, 2026 Scheduling Order, the parties are required to certify this matter as ready for a settlement conference no later than April 30, 2026. Because this is a joint filing, we require your review and approval prior to submission.

Please review the attached document and confirm your approval to file on your behalf, or provide any revisions you believe are necessary, no later than April 28, 2026, so that we may comply with the Court's deadline.

If we do not receive a response, Defendants will proceed as appropriate to comply with the Court's Order.

A courtesy copy will also be sent to you via U.S. Mail.

Thank you, and we look forward to your prompt response.

All the best,

Dominick Detente, Esq.
SHAW & LINES, LLC
We've Moved!
1490 S. Price Rd., Suite 318
Chandler, Arizona 85286
480.456.1500

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EXHIBIT 18

Gmail

Sandra Rodriguez <sandra.rodriguez0339@gmail.com>

Response to : Defendant's Initial Disclosure Statement to Amended Complaint (Rodriguez v. Gardens Gilbert - CV 2024005940)

Augustus Shaw <ashaw@shawlines.com> Tue, Mar 10, 2026 at 4:30 PM
To: Sandra Rodriguez <sandra.rodriguez0339@gmail.com>, Dominick Détente <Dominick@shawlines.com>
Cc: Diane Fincher <Diane@shawlines.com>

Ms. Rodriguez,

First pursuant to Rule 26(d) Arizona Rules of Civil Procedure, all discovery disputes must be addressed in a meet and confer either by conference call or by Zoom followed by a joint statement. Please let me know when you would like to meet and confer regarding your discovery dispute.

Next, attached please find the requested exhibits.

Augustus H. Shaw IV†*

Shaw & Lines, LLC

1490 S. Price Rd., Suite 318
Chandler, Arizona 85286

Phone 480-456-1500

e-mail ashaw@shawlines.com

web site www.shawlines.com

†Licensed in Arizona and Nebraska

*President- College of Community Association Lawyers

*Faculty Associate Professor - Arizona State University O'Connor College of Law

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THIS FIRM MAY ACT AS A DEBT COLLECTOR. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

[Quoted text hidden]

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8 attachments

- **GARDENS0001-0066.pdf**
  3667K
- **GARDENS0067-0078.pdf**
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- **GARDENS0079-0197.pdf**
  3202K
- **GARDENS0197-0201.pdf**
  162K
- **GARDENS0202-0204.pdf**
  146K
- **GARDENS0205-0207.pdf**
  200K
- **GARDENS0208-0210.pdf**
  1243K
- **GARDENS0211-0213.pdf**
  1185K

EXHIBIT 19

Plaintiff's March 11, 2026 Follow-Up Regarding Missing Discovery:
Plaintiff notified Defendants of outstanding discovery deficiencies and requested production. In response, Defendants' counsel, Augustus H. Shaw IV, re-sent duplicative materials already in the record, including the same CC&Rs previously filed as Exhibit 1 to Plaintiff's Amended Civil Complaint, rather than producing responsive documents. This response failed to identify or produce responsive materials and did not cure the deficiencies. *(See Exh. 18; Shaw's Response to Rodriguez Discovery Request).*

Defendants' conduct violates Rule 34(b), Ariz. R. Civ. P., by failing to produce or identify responsive documents; Rule 26.1, Ariz. R. Civ. P., by failing to disclose the facts and evidence supporting their claims and defenses; and Rule 37, Ariz. R. Civ. P., as Defendants failed to supplement or comply after notice, warranting an order compelling production and appropriate sanctions.

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WHEN RECORDED, RETURN TO:
C. Timothy White, Esq.
Tiffany & Bosco, P.A.
1850 N. Central Avenue, Suite 500
Phoenix, Arizona 85004-4546

DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR

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THE GARDENS

This document is being re-recorded for the sole purpose of attaching Exhibits "A" and "B" hereto (which exhibits were inadvertently not attached to this Declaration when initially recorded).

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE GARDENS Gilbert, Arizona

This Declaration of Covenants, Conditions, Restrictions and Easements for The Gardens is made effective as of the 31 day of December, 2001, by Key Construction, Inc., an Arizona corporation dba Trend Homes, and Classic Communities, Inc., an Arizona corporation.

ARTICLE 1
DEFINITIONS

The following words, phrases and terms used in this Declaration shall have the following meanings:

Section 1.01 – "Additional Property". Additional Property shall mean any other real property located adjacent to the Property. For purpose of the foregoing, real property shall be deemed to be located adjacent to the Property if it is separated from the Property solely by land dedicated to and accepted by the State of Arizona, Maricopa County, the Town of Gilbert or any other political subdivision (e.g., land dedicated for public rights-of-way).

Section 1.02 - "Architectural and Landscaping Guidelines". Architectural and Landscaping Guidelines shall mean the rules and guidelines adopted by the Committee, as they may be amended or supplemented, which shall govern the procedures of the Committee and the design, placement, color schemes, exterior finishes, selection, and use of materials and similar features for all Improvements within the Project and the design, installation and placement of Landscaping within the Project.

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Section 1.03 - "Areas of Association Responsibility". Areas of Association Responsibility shall mean (i) all Common Areas and Improvements situated thereon; (ii) the Parcel 2 Common Use and Benefit Areas; (iii) all Improvements situated within the boundaries of a Lot which the Association acknowledges in this Declaration or in another recorded document is to be maintained and repaired by the Association; (iv) all real property and the Improvements situated thereon, if any, within the Project located within and improved as dedicated public rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or a county, city or town has accepted the responsibility for the maintenance, repair and replacement of such areas; (v) any Project entry features constructed within the Project; (vi) all perimeter fences or walls for the Project located along Ray Road, Recker Road, Wren Drive, Orchid Lane, Garden Circle, Sanders Drive and San Tan Freeway and all perimeter fences or walls located adjacent to any Common Area tract, including any perimeter fences or walls located upon or within the boundaries of a Lot, provided, however, the Association shall not be responsible for painting or finishing the interior side (the side facing a Living Unit or a yard on any Lot) of any perimeter fences or walls located upon or within the boundaries of a Lot; (vii) if any perimeter fence or wall of the Project is located within the boundaries

of a Lot, the area of the Lot located outside such perimeter fence or wall; (viii) any property adjacent to or near the Project which the City may require the Association to maintain; and (ix) any areas within any Condominium Development within the Project which are specifically designated on any plat or site plan or other document for a Condominium Development or in any other separate instrument executed by Declarant to be for the benefit of all Owners of Lots within the Project.

Section 1.04 - "Articles". Articles shall mean the Articles of Incorporation of the Association as they may from time to time be amended.

Section 1.05 - "Assessment". Assessment shall mean all assessments authorized and provided by Article 8 of this Declaration.

Section 1.06 - "Assessment Lien". Assessment Lien shall mean a lien created or imposed by Article 8 of this Declaration.

Section 1.07 - "Association". Association shall mean and refer to the Arizona nonprofit corporation to be organized by Declarant to administer and enforce this Declaration and the other Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns. Declarant intends to organize the Association in the name of "Gardens/ Gilbert Community Association" but if such name is not available, the Association shall be organized under such other name as the Declarant may select.

Section 1.08 - "Board". Board shall mean the Board of Directors of the Association.

Section 1.09 - "Builder". Builder shall mean any Person who is engaged in the home building business and who purchases one or more Lots from Declarant for the purpose of constructing a Living Unit and related Improvements thereon.

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Section 1.10 - "Bylaws". Bylaws shall mean the Bylaws of the Association, as they may from time to time be amended.

Section 1.11 – "Classic Communities". Classic Communities shall mean and refer to Classic Communities, Inc., an Arizona corporation.

Section 1.12 - "Committee". Committee shall mean the Architectural and Landscaping Control Committee created pursuant to Article 4 of this Declaration, and, if no such committee is created, it shall mean the Board.

Section 1.13 - "Common Areas". Common Areas shall mean (i) those portions of the Project, together with the Improvements thereon, which the Association may, from time to time, own in fee or in which it may have an easement interest, for as long as the Association holds fee title or an easement interest, including, but not limited to (a) each of the Tracts shown on the Plats but excluding common elements and limited common elements within the Condominium Development, (b) all Tracts and parcels within Parcel 5, including the private streets known as East Windsor Drive, South Sabino Drive, East Jasper Drive, South Swallow Drive, Avocet Street, South Owl Drive and South Sheffield Drive and all pool, recreational and retention tracts and all amenity parking areas but excluding any common elements and limited common elements within the Condominium Development, and (c) the private streets and parking areas within Parcel 2; (ii) all land within the Project which Declarant, by this Declaration or in any other recorded instrument, makes available

for use by all Members of the Association or otherwise designates as Common Areas for purposes of this Declaration; and (iii) any land within, adjacent to or near the Project which the Town may at any time require be owned by the Association.

Section 1.14 – "Condominium Development". Condominium Development shall mean a residential condominium intended to be established and developed on part of Parcel 5.

Section 1.15 – "Condominium Unit". Condominium Unit shall mean a unit, together with any appurtenant interest in common elements and limited common elements within any Condominium Development.

Section 1.16 - "Declarant". Declarant shall mean and refer to (a) Trend Homes, and its successors and assigns as to Parcels 1, 2, 3, 4, 6 and 7 shown in the Master Plans and any Person to whom Trend Homes may expressly assign any or all of its rights under this Declaration; (b) Classic Communities and its successors and assigns as to Parcel 5 as shown in the Master Plans and any Person to whom Classic Communities may expressly assign all or any of its rights under this Declaration or the Parcel 5 Purchase Agreement, but only as long as the Parcel 5 Purchase Agreement is in effect or as long as Classic Communities owns any property within the Condominium Development; and (c) Trend Homes as to Parcel 5 if the Parcel 5 Purchase Agreement is terminated and Classic Communities does not then own any portion of the Condominium Development. **"Declarants"** shall mean and refer to all of the parties described in subsections (a), (b) and (c) of this Section, collectively. An assignment of the rights of a Declarant under this Declaration may be an assignment of less than all of the rights of a Declarant under this Declaration, and such assignment may apply to less than all the Property. No assignment or partial assignment of a Declarant's rights under this Declaration shall be valid unless and until an assignment of Declarant's rights or a partial assignment of Declarant's rights is recorded in the Official Records of the county in which the Property is located.

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Section 1.17 - "Declaration". Declaration means this Declaration of Covenants, Conditions, Restrictions and Easements for The Gardens, as and if amended.

Section 1.18 - "Exempt Property". Exempt Property shall mean the following parts of The Gardens:

(i) Any Lots, Parcels, Common Areas and any common elements and limited common elements within any Condominium Development on any other part of any Parcel or the Project, all to the extent owned by a Declarant.

(ii) All land and improvements owned by or dedicated to and accepted by the United States of America, the State of Arizona, Maricopa County, Town of Gilbert or any other political subdivision for as long as any such entity or political subdivision is the owner thereof or for so long as said dedication remains effective;

(iii) All Common Areas for as long as the Association is the owner thereof; and

(iv) Any Parcel owned by a Satellite Association.

Section 1.19 - "First Mortgage". First Mortgage shall mean any mortgage, deed of trust or any other form of security instrument or agreement given to an institutional lender for the purpose

of creating a lien on one or more Lots, with the first priority over any other mortgage, deed of trust or other security instrument or agreement.

Section 1.20 - "First Mortgagee". First Mortgagee shall mean the holder of any First Mortgage.

Section 1.21 – "Improvement". Improvement shall mean all parts of a Living Unit, any building, driveway, walkway, parking area, fence, wall or other structure, any swimming pool or spa, any Landscaping and all other improvements of every type and kind constructed or otherwise located within the Project.

Section 1.22 - "Landscaping". Landscaping shall mean any tree, plant, shrub, hedge, cacti, grass and other vegetation of any kind, any inert material used as ground cover and any rocks or similar materials used in connection with landscaping within the Project.

Section 1.23 - "Living Unit". Living Unit shall mean any building, or portion of a building, situated upon a Lot, designed and intended for use and occupancy as a residence. All references to a Living Unit shall be deemed to refer also to the underlying Lot and all permanent Improvements thereon.

Section 1.24 - "Lot". Lot shall mean (a) any area of real property within Parcels 1, 2, 3, 4, 6 and 7 of the Project designated as a lot on any of the Plats for such Parcels and (b) any Condominium Unit within Parcel 5. Where the context indicates or requires, the term "Lot" shall include any Living Unit and other Improvements situated thereon.

Section 1.25 – "Master Plans. Master Plans mean and refer to The Gardens Master Plans prepared by MZ Group, Inc. and approved by the Town, as such may hereafter be modified from time to time by a Declarant.

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Section 1.26 - "Member". Member shall mean any Person who is a member of the Association as provided in Article 7 below.

Section 1.27 - "Occupant". Occupant shall mean any Person, other than an Owner who occupies or is in possession of a Lot, or any portion of a Lot, or any Living Unit on a Lot, whether as a lessee under a lease or otherwise. Occupant shall also include guests or invitees of any Owner or of any of the Persons described in the preceding sentence.

Section 1.28 - "Owner". Owner shall mean and refer to the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include (i) Persons having an interest in a Lot merely as security for the performance of an obligation or (ii) an Occupant. Owner shall include a purchaser under a contract for the conveyance of property, subject to the provisions of A.R.S. § 33-741 et seq. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to A.R.S. § 33-801, et seq., the trustor shall be deemed to be the Owner. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar

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agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

Section 1.29 – "Parcels". Parcels shall mean (a) each of the seven (7) parcels of real property covered by and described in the Master Plans. Each of the Parcels shall be referred to individually as a "Parcel". The numbers of the Parcels referred to herein shall correspond with the numbers referred to on the Master Plans.

Section 1.30 – "Parcel 5 Purchase Agreement". Parcel 5 Purchase Agreement shall mean the Purchase Agreement entered into or to be entered into between Trend Homes, as seller, and Classic Communities, as buyer, pursuant to which Trend Homes has granted or shall grant to Classic Communities an exclusive right to purchase, construct and sell the Units within the Condominium Development.

Section 1.31 – "Parcel 2 Common Use and Benefit Areas". Parcel 2 Common Use and Benefit Areas shall mean all areas within the Lots within Parcel 2 except (a) that part of a Parcel 2 Lot on which the foundation (which shall be construed to mean the slab, driveway and front porch of a home) of a Living Unit is situated and (b) any Private Use Easement Areas as shown and/or described on the Plat for Parcel 2 and as further described in Sections 16.01 and 16.02 of this Declaration.

Section 1.32 - "Person". Person shall mean a natural person, corporation, business trust, estate, trust, limited liability company, partnership, association, joint venture, municipality, governmental subdivision or agency or other legal or commercial entity.

Section 1.33 - "Plat" and "Plats". Plats shall mean each plat which is Recorded for the Parcels, as such may be amended or supplemented and each of which shall be referred to individually as a "Plat".

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Section 1.34 - "Project Documents". Project Documents shall mean this Declaration, the Articles, the Bylaws, any Rules and Regulations, any Architectural and Landscaping Guidelines and all other documents or instruments pertaining to and affecting the entire Project, as the same may be amended from time to time.

Section 1.35 - "Property". Property shall mean the property situated in the County of Maricopa, State of Arizona, as described on Exhibit "A" to this Declaration, and such Additional Property, if any, as may hereafter become subject to this Declaration and be brought within the jurisdiction of the Association pursuant to the provisions of this Declaration.

Section 1.36 - "Purchaser". Purchaser shall mean any Person, other than a Declarant, who by means of a voluntary transfer, becomes the Owner of a Lot, except for a Person who, in addition to purchasing a Lot, is assigned any or all of the Declarant's rights under this Declaration.

Section 1.37 – "Recording", "Recordation" and "Recorded". Recording or Recordation shall mean placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona, and Recorded shall mean having been so placed of public record.

Section 1.38 - "Rules and Regulations". Rules and Regulations shall mean any rules and regulations adopted and/or amended from time to time by the Association for the Project.

Section 1.39 – "Satellite Association". Satellite Association shall mean any separate homeowners association, condominium association or similar association formed by a Declarant for any Parcel.

Section 1.40 - "Single Family". Single Family shall mean a group of one or more persons, each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not so related, who maintain a common household in a Living Unit.

Section 1.41 - "Single Family Residential Use". Single Family Residential Use shall mean the occupation or use of a Lot by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning and other applicable laws.

Section 1.42 - "Town". Town shall mean the Town of Gilbert, Arizona.

Section 1.43 – "Tract Declaration". Tract Declaration shall mean a declaration Recorded pursuant to Section 2.07 of this Declaration.

Section 1.44 – "Trend Homes". Trend Homes shall mean and refer to Key Construction, Inc., an Arizona corporation doing business as Trend Homes.

Section 1.45 - "Visible From Neighboring Property". Visible From Neighboring Property shall mean, with respect to any particular object or matter, if such object or matter would be visible to a person six (6) feet tall, standing on any part of the Project adjacent to the Lot on which the object or matter is situated at an elevation no higher than the elevation of the base of the object or matter being viewed.

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ARTICLE 2
PLAN OF DEVELOPMENT

Section 2.01 - General Declaration Creating The Gardens. Declarants intend to develop The Gardens by subdividing the Property into various Parcels, Lots, Common Areas and the Condominium Development. As portions of The Gardens are developed, Trend Homes intends to Record one or more Plats for the Parcels, which Plats shall designate Common Areas and shall incorporate this Declaration by reference. Declarants hereby declare that all of the real property within The Gardens is, and shall be, held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration and any Recorded Plat applicable thereto, as amended or modified from time to time; provided, however, that such portions of the Property as are dedicated to the public or a governmental entity for public purposes shall not be subject to this Declaration while owned by the public or the governmental entity, although any restrictions imposed in this Declaration upon the Owners or the Occupants concerning the use and maintenance of such portion or portions of the Property shall at all times apply to the Owners and Occupants. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of The Gardens and is established for the purpose of enhancing and protecting the value, desirability and attractiveness of The Gardens and every part thereof. All of this Declaration shall run with the ownership of all Parcels and Lots for all purposes and shall be binding upon and inure to the benefit of Declarants, the Association, all Owners and Occupants and their successors in interest. The Lots and the membership in the Association and the other rights created by this Declaration shall not be

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separated from any Lot or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot, even though the description in the instrument of conveyance or encumbrance may refer only to the Lot. Pursuant to the Parcel 5 Purchase Agreement, Trend Homes has committed to sell and Classic Communities has the exclusive right to purchase from Trend Homes portions of Parcel 5 on which Classic Communities intends to develop Condominium Units within the Condominium Development which is currently intended to be developed on part of Parcel 5.

Section 2.02 – Associations Bound. Upon the date of filing the Articles of the Association with the Arizona Corporation Commission, this Declaration shall be binding upon and shall benefit the Association. In addition, any and all Satellite Associations shall be bound by this Declaration.

Section 2.03 - Transfer of Common Areas. The Common Areas shall be transferred by Trend Homes, by special warranty deeds, to the Association pursuant to the terms of this Declaration. Such transfers shall be subject to all easements and matters of record affecting the Common Areas. Once the Common Areas are conveyed to the Association, the Common Areas may not be mortgaged or conveyed without the consent of at least sixty-seven percent (67%) of the Owners (other than Declarants). In the event of any actual or threatened condemnation of any portion of the Common Areas prior to the conveyance of the Common Areas to the Association, and so long as the actual or threatened condemnation of such Common Areas does not materially and adversely affect the Project, Declarants shall have the right and authority to convey the affected Common Areas to the applicable authority which has commenced or threatened condemnation proceedings and the Declarant which so conveys such Common Areas shall be entitled to retain all condemnation awards and/or sale proceeds received from any such authority.

Section 2.04 - Right to Resubdivide and Replat. Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarants hereby reserve the right at any time, without the consent of other Owners, to modify any plans, declarations and Plats for the Project or any part thereof and to resubdivide and replat their respective Parcels or any Lot or Lots or any other part of the Project which such Declarants then own and have not sold.

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Section 2.05 - Disclaimer of Representations. Notwithstanding anything to the contrary herein, Declarants make no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Project or any Parcel can or will be carried out or that the Property or any adjacent real property is or will be committed to, or developed for, a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While Declarants have no reason to believe that any of the restrictive covenants contained in this Declaration are, or may be, invalid or unenforceable, Declarants make no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants shall assume all risks as to the validity and enforceability thereof, and by accepting a deed to a Lot, agrees that Declarants shall have no liability with respect thereto.

Section 2.06 – Disclosures. Disclosure is hereby made by Declarants of the following facts, circumstances and conditions which exist with respect to or which could affect the Project:

A. Santan Freeway. The Project is located adjacent to the existing right-of-way for the Santan Freeway.

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B. Well Site / Pumping Station. A well site and/or pumping station is located at or near the southwest corner of the intersection of Recker Road and Ray Road, and such facility is owned and/or operated by Roosevelt Water Conservation District.

C. Williams Gateway Airport. The Project is located within approximately two (2) miles of Williams Gateway Airport and, therefore, the Project, due to its proximity to Williams Gateway Airport, is likely to experience aircraft overflights, which could generate noise levels which may be of concern to some individuals."

Each Owner, by accepting a deed to a Lot, shall be deemed to have fully investigated the issues related to the foregoing disclosures and shall be deemed to have agreed that neither Declarants nor any Affiliate of a Declarant shall have any liability or obligation whatsoever with respect to any of the foregoing matters nor for any adverse consequences, circumstances or conditions which may at any time arise as a result thereof.

Section 2.07 – Supplemental Declarations. Declarants shall have the right and authority to subject any of their respective Parcels to such Tract Declarations and any other supplemental declarations, covenants, restrictions and easements which such Declarant shall deem appropriate, including, without limitation, such Condominium Declarations and similar instruments which such Declarant may cause to be Recorded with respect to any Condominium Development. Any such other Tract Declarations or other declarations, covenants, restrictions and easements shall be deemed to be supplemental to (and not in lieu of) this Declaration and the other Project Documents.

ARTICLE 3
COVENANTS AND RESTRICTIONS

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In addition to all other covenants and restrictions contained herein, the use of the Lots and Common Areas and all Improvements thereon and all other parts of the Project, are subject to the covenants and restrictions contained in this Article.

Section 3.01 - Residential Use. Each Lot in the Project shall be improved and used exclusively for Single Family Residential Use. No trade or business may be conducted on any Lot or in or from any Living Unit or any guest house, except that an Owner or other resident of a Living Unit may conduct a business activity within a Living Unit so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the outside of the Living Unit, (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Project, (iii) the business activity does not involve persons coming onto the Lot (other than for incidental and minimal pick-ups, deliveries and visits) or the door-to-door solicitation of Owners or Occupants, (iv) the business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents within the Project and (v) the business actually conducted on a Lot or from a Living Unit does not involve any employees routinely coming onto the Lot, other than family members residing in the Living Unit, all as may be determined from time to time in the sole discretion of the Board. The terms "business" and "trade", as used in this Section, shall be construed to have ordinary, generally accepted meanings, and shall include without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full or part-time, (ii) such activity is intended or does generate a profit or (iii) a license is required for such activity.

The sale or lease of a Living Unit by the Owner thereof shall not be considered a "trade" or "business" within the meaning of this Section. Notwithstanding the foregoing provisions, Declarants, and their duly authorized agents and employees, may use any part of the Project owned by such Declarant and not owned by a Purchaser for a model site or sites, display and sales offices, business offices and construction offices during the construction and sales periods.

Section 3.02 - Temporary Occupancy and Buildings. No trailer, bus, mobile home, tent, shack, storage shed, garage, barn or other building of a temporary nature shall be installed, located or used on any Lot at any time as a residence, either temporarily or permanently. Notwithstanding the foregoing, Declarant shall have the right, until the Project is fully developed and improved, to maintain construction facilities and storage areas incident to the development and improvement of the Project.

Section 3.03 - Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or any other portion of the Property. In addition, a Living Unit or any other portion of the Project shall not be used in whole or in part for the storage of any property or thing that will cause the Living Unit or the Project or any part thereof to appear in an unclean or untidy condition or that will be unsightly, offensive, obnoxious or detrimental to any other Owner or Occupant. No substance, thing or material shall be kept or used upon any Lot that will emit a foul, offensive or obnoxious odor or that will cause any noise that will or might disturb the peace, quiet, comfort, serenity or tranquility of the Owners and/or Occupants of adjacent portions of the Project. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any portion of any Lot without the written consent of the Committee. Notwithstanding the foregoing, speakers specifically designed and installed as built-in and recessed exterior speakers for a stereo system installed inside any Living Unit may be installed on a Lot provided that such speakers shall not be Visible From Neighboring Property and shall not be used in a manner so as to disturb the peace or the quiet, serenity or tranquility of the Owners and/or Occupants of adjacent portions of the Project. Noise caused by improperly muffled motor vehicles shall not be permitted and construction machinery and equipment must be operated within the manufacturers' recommendations and specifications and only during reasonable working hours. No nuisance of any kind or description shall be permitted to exist or operate upon any Lot so as to be offensive, unsanitary, unsightly or detrimental to the Owners or Occupants of adjacent portions of the Project. The Board, in its sole and absolute discretion, shall have the right to determine the existence of any nuisance whether described herein or not. No Improvements shall be permitted to be constructed on or to otherwise be permitted to exist on any Lots, the height or location of which shall be deemed by the Committee (i) to constitute a traffic hazard, (ii) to be unreasonably unattractive, or (iii) to be unreasonably detrimental to adjoining or nearby property.

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Section 3.04 - Trash and Recycling Containers and Collection. No rubbish, trash, garbage, refuse, debris or recyclable materials shall be placed or kept on any portion of any Lot except in covered containers of a type, size and style which are approved by the Committee. Refuse containers shall be kept clean, sanitary and free of noxious odors. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make such containers available for collection and then only for the shortest period of time (not to exceed twenty-four [24] consecutive hours) reasonably necessary to effect such collection. All rubbish, trash, garbage, refuse, debris and recyclable materials shall be promptly removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be maintained or used and no rubbish, trash, garbage, refuse or debris shall be burned by open fire or otherwise on any portion of any Lot.

Section 3.05 - Animals. No animals, fish, fowl, poultry, swine, horses, reptiles or livestock shall be raised, bred or kept on or within any Living Unit or on any Lot, except that a reasonable number of dogs, cats or other generally recognized and commonly accepted household pets may be kept within the Living Units or on Lots; provided, however, such household pets may not be kept, bred or maintained thereon for any commercial purposes, or in unreasonable numbers. Except where specifically approved by the Board to the contrary, "reasonable number" shall mean no more than two (2) of any single specie of household pet (e.g., two (2) dogs, two (2) cats, etc.) and no more than six (6) total household pets; provided, however, offspring of such household pets will be permitted for a period not to exceed sixteen (16) weeks following the birth of such offspring. No household pets may be kept on a Lot which result in an annoyance to or which are obnoxious to other Owners or Occupants. All household pets must be kept indoors or within fenced yards and may not be permitted to run loose. No structure for the care, housing or confinement of any animal, bird, fowl, poultry or livestock shall be constructed or maintained without the prior written approval of the Committee, and in no event shall any such structure be constructed so as to be Visible From Neighboring Property. The owner of each pet is responsible for cleaning any waste, dirt and soilage and repairing any damage caused by the pet. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, for the purposes of this Section, whether a particular animal, bird, fowl, poultry or livestock is a generally recognized and commonly accepted household pet or a nuisance or whether the number of animals, birds, fowl, poultry or livestock on any Lot is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained herein.

Section 3.06 - Motor and Recreational Vehicles and Parking. No mobile or motor home, boat, jet ski or wave runner, boat, motor home, recreational vehicle, all-terrain vehicle, off-road vehicle, trailer, horse trailer, camper, camper shell, snowmobile, bus or any motor vehicle classed by manufacturing rating as exceeding one (1) ton or any vehicles designed for commercial purposes **(collectively, "Recreational and Commercial Vehicles")** shall be parked, kept, placed, maintained, constructed, reconstructed or repaired on any Lot or within the Project so as to be Visible From Neighboring Property; provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs and provided, further, that such Recreational and Commercial Vehicles may, for a period not to exceed twenty-four (24) consecutive hours, be parked on any paved driveways on Lots for the purpose of loading, unloading and preparing such items for offsite usage. All vehicles other than Recreational and Commercial Vehicles **(the "Pedestrian Vehicles")** which are owned, leased or used by an Owner or Occupant shall be permitted to park only in (i) garages or on any paved driveways on their Lots (subject to the restrictions in Section 16.04 below) and (ii) designated parking spaces and the roadways adjacent to or near to the pool and/or other recreational facilities within Parcels 2 and 5, but only so long as the Owner or Occupant responsible for such Pedestrian Vehicle is actively using such Common Area facilities. No vehicles may be parked so as to obstruct any sidewalks or driveways, and no vehicle may park on any private streets within the Project except as specified in subsection (ii) above in this Section or except as specifically permitted by signage. Vehicles of guests and invitees may park on the public roadways within the Project for a temporary period of time not to exceed ten (10) hours provided that such parking is done in a fashion so as not to obstruct driveways on other Lots or traffic within the Project. All vehicles of Owners, Occupants, guests and invitees shall be kept in garages whenever such facilities are sufficient to accommodate the number of motor vehicles on a Lot. Any vehicle parked in violation of this Declaration may be towed at the direction of the Board or its agent, and the recording of this Declaration shall constitute the legal notice of intent to tow as though the Project

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were posted in accordance with the applicable laws and ordinances. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner or Occupant, any amounts payable to the Association shall be secured by the Assessment Lien and the Association may enforce collection of such amounts in the same manner provided for in this Declaration for the collection of Assessments. The Board may adopt additional parking restrictions including the establishment of fines and assessments for their violation.

Section 3.07 - Garages. Any part of a Living Unit constructed as a garage shall be used for parking vehicles and other garage purposes only and shall not be converted for living or recreational purposes. All garages must be kept in a neat and tidy manner at all times. Garage doors must be kept completely closed at all times except to permit vehicle ingress and egress or when the garage is being used for access to and from the Living Unit.

Section 3.08 - Signs. No signs or billboards of any kind shall be displayed to the public view on any portion of the Project except for: (i) signs as may be required by legal proceedings; (ii) not more than two (2) signs for each Living Unit for identification of the address of such Living Unit with a combined total face area of eighty-four (84) square inches or less; (iii) such signs as may be erected by a Declarant in connection with the development of any Parcel or the Project or the sale by Declarant of any Lots; (iv) one (1) professionally prepared sign advertising the Lot for sale or for rent, which sign shall not be larger than 24" x 24" and shall be professionally made of metal or fiberboard or wood and mounted on a wood or metal post; (v) one (1) "open house" sign; (vi) signage for the Project at such locations designated or installed by a Declarant; and (vii) such other signs, the nature, number and location of which shall have been approved in advance by the Association. All signs provided for under this Section shall require the approval of the Committee as to the size, color, design, message content, location, type and hours of display.

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Section 3.09 - Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a residence, appurtenant structures or other Improvements, which machinery and equipment shall not be Visible From Neighboring Property, except when it is being operated or used in connection with the construction of Improvements or the maintenance of Improvements.

Section 3.10 - Clotheslines. No clotheslines of any sort or other device for drying or airing of clothes shall be erected, placed or maintained upon any Lot in a manner so as to be Visible From Neighboring Property.

Section 3.11 - Sidewalk and Roadway Encroachments. No Improvement of any kind shall be permitted to overhang or otherwise encroach upon any Common Area, Roadway or sidewalk within the Project; provided, however, Landscaping approved by the Committee and properly cultivated and maintained may overhang Common Areas or the Roadways provided such Landscaping does not create a nuisance to Owners or Occupants within the Project.

Section 3.12 - HVAC and Solar Panels. Except as may be installed by a Declarant during the original construction of any Living Unit, no heating, air conditioning, evaporative cooling facilities or solar collector panels may be installed, constructed or maintained upon any Living Unit or on any Lot unless (i) such facilities or panels are installed in such a manner so they are not Visible From Neighboring Property and (ii) the Committee has approved such facilities or panels.

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Section 3.13 - Fencing. Except as may be constructed by a Declarant or otherwise approved in writing by the Committee, all fencing which is built upon a Lot shall be of masonry and/or wrought iron material only and shall have a maximum height of six (6) feet. All fencing constructed by a Declarant may only be replaced with fencing of the same type, style and construction.

Section 3.14 - Storage and Tool Sheds and Structures. No storage or tool sheds or similar structures shall be placed, erected or maintained upon any part of the Project, except where the storage or tool shed or similar structure (i) is constructed of the same or substantially similar materials as, and is the same color as and is architecturally comparable to and compatible with, the exterior of the Living Unit located upon the Lot (all as reasonably determined by the Committee) subject to the applicable provisions of any Architectural and Landscaping Guidelines and (ii) complies with any applicable set-back line requirements.

Section 3.15 - Window Materials. Within sixty (60) days of occupancy of a Living Unit, the Owner of the Living Unit shall install draperies or suitable window treatments on all windows facing the Roadways and Common Areas adjacent to its Lot. However, no external window covering may be placed, or permitted to remain, on any window of any Living Unit or other Improvement without the prior written approval by the Committee in accordance with Article 4. No reflective coating, materials or covering may be placed on any window of any Living Unit or other Improvement. Further, all curtains, blinds, interior shutters, screens and window coverings or window treatments which are Visible From Neighboring Property must be neutral in color. No bedsheets, blankets, bedspreads or other items not designed for use as curtains or other window coverings may be used for such purposes except during a period not to exceed thirty (30) days following the conveyance of a Lot from a Declarant or a Builder to a Purchaser.

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Section 3.16 - Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals, gravel or other natural resources of any kind.

Section 3.17 - Conveyance. No portion less than all of a Living Unit or Lot shall be conveyed, transferred or encumbered. Nothing herein shall prevent the dedication or conveyance of or granting of easements over portions of the Project for public utilities or any other public purposes, in which event the remaining portion of any Lot or Living Unit affected shall, for the purpose of this Declaration, be considered a whole Lot or Living Unit.

Section 3.18 - Further Subdivision. No Lot in the Project shall be further subdivided or separated into smaller lots nor conveyed in less than the full original dimensions of such Lots as shown on the Plat. Notwithstanding this Section or any other provision contained in this Declaration, as long as the Class "B" Membership is in existence, each Declarant, without the consent of any other Member, shall have the right to plat and replat their respective Parcels in any manner they deem appropriate, including, without limitation, changing the size, location, configuration and number of Lots, Roadways, and Common Areas and changing the number of Lots within the Project. In the event of any such replat, the Declarants shall have the right, without the consent of any other Member, to amend this Declaration as may be necessary or appropriate as a result of such replat of the Project or any Parcel(s).

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Section 3.19 - Violation of Statutes, Ordinances and Regulations. No Lot shall be maintained or utilized in such a manner as to violate any applicable statute, ordinance or regulation of the United States of America, the State of Arizona, the county in which the Lot is located, the Town or any other municipality, governmental agency or subdivision authority having jurisdiction over the Lots or the use or occupation thereof.

Section 3.20 - Rental. Only entire Living Units may be rented, and if so rented, the occupancy thereof shall be limited to the lessee or tenant under the lease and his family and guests. No Owner shall be permitted to lease a Living Unit for transient or hotel purposes. No Owner may lease less than his entire Living Unit. All lease agreements shall be in writing and shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration and the Project Documents, and any failure by Lessee to comply with the terms of such documents shall be a default under the lease. For purposes of this Declaration, "lease" shall mean any agreement for the leasing or rental of all of a Living Unit, including, but not limited to, "month-to-month" rentals. Upon leasing his Living Unit, an Owner shall promptly notify the Association in writing of the commencement date and termination date of the lease, together with the names of each Lessee or other person who will be occupying the Living Unit during the term of the lease.

Section 3.21 - Drainage. No Living Unit or Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project or any part thereof or for any Lot as shown on the drainage plan on file with the city or town in which the Project is located.

Section 3.22 - Utility and Irrigation Meters and Panels. No utility or service equipment or lines may be installed or located on any Lot except as has been approved by the Committee. No utility meter or apparatus shall be located on any pole or attached to the outside of any Improvement which is exposed to view from any street within the Project. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls as necessary to comply with the requirements, requests, regulations, orders, commissions or specifications of any public, quasi-public or private utility or any governmental agency or body provided that reasonable efforts shall be made to avoid placing any such meter, panel or equipment on the outside front wall of any Living Unit or other building facing the street directly in front of or to the side of the Living Unit. All sprinkler and irrigation controls, valves, panels and equipment installed on any Lot shall be installed so as not to be visible from any street located directly in front of or to the side of any Lot.

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Section 3.23 - Antennas and Satellite Dishes.

A. This Section applies to antennas, satellite dishes and other devices (**"Receivers"**), including any poles or masts (**"Masts"**) for such Receivers, for the transmission or reception of television or radio signals or any other form of electromagnetic radiation.

B. As of the date of recordation of this instrument, Receivers one (1) meter or less in diameter are subject to the provisions of Title 47, Section 1.4000 of the Code of Federal Regulations (**with such Section being referred to herein as the "Federal Regulation"**). **"Regulated Receivers"** shall mean Receivers subject to the Federal Regulation as such may be amended or modified in the future or subject to any other applicable federal, state or local law, ordinance or regulation that would render the restrictions in this Section on Unregulated Receivers

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(hereinafter defined) invalid or unenforceable as to a particular Receiver (**"Other Laws"**). **"Unregulated Receivers"** shall mean all Receivers that are not Regulated Receivers. Notwithstanding the foregoing, a Regulated Receiver having a Mast in excess of the size permitted under the Federal Regulation or Other Laws for Regulated Receivers shall be treated as Unregulated Receivers under this Section.

C. No Unregulated Receivers shall be permitted outdoors on any Lot, whether attached to a building or structure or on any Lot, unless approved in writing by the Committee, with such screening and fencing as such Committee may require. Unregulated Receivers and any mast therefor, if permitted by the Committee, must be ground mounted and may in no event be Visible From Neighboring Property.

D. Regulated Receivers shall be subject to the following requirements:

i) A Regulated Receiver and any required Mast shall be placed so as not to be Visible From Neighboring Property if such placement will not (a) unreasonably delay or prevent installation, maintenance or use of the Regulated Receiver, (b) unreasonably increase the cost of installation, maintenance or use of the Regulated Receiver or (c) preclude the reception of an acceptable quality signal.

ii) Regulated Receivers and any required Masts for a Regulated Receiver shall be placed on Lots only in accordance with the following descending order of locations, with Owners required to use the first available location that does not violate the requirement of parts (a) through (c) in subsection (i) above:

1. A location in the back yard of the Lot where the Receiver will be screened from view by Landscaping or other Improvements;

2. An unscreened location in the back yard of the Lot;

3. On the roof but below the roof line;

4. A location in the side yard of the Lot where the Receiver and any pole or Mast will be screened from view by Landscaping or other Improvements;

5. An unscreened location in the side yard; or

6. A location in the front yard of the Lot where the Receiver will be screened from view by Landscaping or other Improvements.

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Notwithstanding the foregoing order of locations, if a location stated in the above list allows a Receiver to be placed so as not to be Visible From Neighboring Property, such location shall be used for the Receiver rather than any higher-listed location at which a Receiver will be Visible from a Neighboring Property, provided that placement in such non-visible location will not violate the requirements of parts (a) through (c) in subsection (i) above. Also, notwithstanding the foregoing,

no Receivers or Masts of any kind shall be permitted in any Parcel 2 Common Use and Benefit Areas.

(iii) No Mast for a Regulated Receiver shall extend above any Regulated Receiver.

(iv) Owners shall install and maintain Landscaping or other Improvements (**"Screening"**) around Receivers and Masts to screen items that would otherwise be Visible From Neighboring Property unless such requirement would violate the requirements of parts (a) through (c) in subsection (i) above. If an Owner is not required to install and maintain Screening due to an unreasonable delay in installation of the Receiver that such Screening would cause, the Owner shall install such Screening within thirty (30) days following installation of the Receiver and shall thereafter maintain such Screening, unless such Screening installation or maintenance will violate the provisions of parts (a) through (c) in subsection (i) above. If an Owner is not required to install Screening due to an unreasonable increase in the cost of installing the Receiver caused by the cost of such Screening, the Association shall have the right, at the option of the Association, to enter onto the Lot and install such Screening and, in such event, the Owner shall maintain the Screening following installation, unless such Screening installation or maintenance will violate the provisions of parts (a) through (c) in subsection (i) above.

The provisions of this Section are severable from each other; the invalidity or unenforceability of any provision or portion of this Section shall not invalidate or render unenforceable any other provisions or portion of this Section, and all such other provisions or portions of this Section shall remain valid and enforceable. The invalidity or unenforceability of any provisions or portions of this Section to a particular type of Receiver or Mast or to a particular Receiver or Mast on a particular Lot shall not invalidate or render unenforceable such provisions or portions regarding other Receivers or Masts on other Lots.

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Section 3.24 - Basketball Goals and Play Structures. No basketball goal, backboard or similar structure or device and no swing set, trampoline, batting cage or other play structure which would be Visible From Neighboring Property shall be placed or constructed on any Lot without the prior written approval of the Committee (including, but not limited to, approval of appearance, dimensions and location). In no event shall basketball goals be permitted to be attached to any Living Unit. Permanent basketball goals must include a free standing pole, which must be painted the color of the body of the Living Unit. The backboard of any basketball goal must be composed of a clear material.

Section 3.25 - Items Visible From Neighboring Property. The following shall not be erected, used, maintained or kept on any Lot so as to be Visible From Neighboring Property: air conditioners, coolers, pool filters, pool heaters, lawn and yard tools, storage tanks for water, gas, gasoline, oil or other fuel.

Section 3.26 - Lights. Except for lights installed by a Declarant, spot lights or other lights shall not be installed, maintained or used in a manner which causes glare to neighboring property or an annoyance to the Owner or Occupant of neighboring Lots. Tennis or sport court and overhead swimming pool lights, shall not be allowed except as approved by the Committee. Tennis and sport court lighting shall not be utilized between the hours of 10:00 p.m. and 6:00 a.m. All outside lights, if any, will be of a height, design and type approved by the Committee.

Section 3.27 - Reflective Materials. Reflective materials or articles, including reflective house sidings and roofing material, shall not be maintained on any Lot. No glass used in the construction of any exterior Improvement on any Lot shall have a light reflective value in excess of fifty percent (50%).

Section 3.28 - Roofs and Flashings. Except as installed by a Declarant, no asbestos shingle roofs, light-reflective roofs or flat roofs (unless fully concealed by a parapet wall so as not to be Visible From Neighboring Property) shall be constructed or maintained on any Lot. No standing water shall be permitted to exist on any flat roof. Only roofs composed of concrete or clay tile or another material approved by the Committee shall be constructed on any Living Unit.

ARTICLE 4
ARCHITECTURAL AND LANDSCAPING CONTROL

Section 4.01 - Architectural and Landscaping Control.

A. All Improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be moved from other locations onto any Lot.

B. No excavation or grading work shall be performed on any Lot without the prior written approval of the Committee.

C. No Improvement shall be constructed or removed from any Lot and, except for such removal as may be required in connection with routine maintenance of Landscaping, no Landscaping shall be installed, planted, placed on or removed from any Lot without the prior written approval of the Committee, and all Improvements and Landscaping must fully comply with the Architectural and Landscaping Guidelines.

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D. No addition, alteration, repair, change, painting or other work which in any way alters the exterior appearance of any Living Unit or any Improvements on any Lot, including, without limitation, the exterior color scheme of any Improvements located thereon from their appearance on the date the Lot is conveyed by a Declarant to a Purchaser shall be made or done without the prior written approval of the Committee.

E. Any Owner desiring approval of the Committee for the construction, installation, addition, alteration, removal, repair, change or replacement of any Improvement which would alter the exterior appearance of his or its Lot or any of the Improvements located thereon shall submit to the Committee a written request for approval, specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Committee shall also submit to the Committee any additional information, plans and specifications which the Committee may request.

F. Upon receipt of approval from the Committee for any construction, installation, addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Committee as soon as practicable and shall diligently pursue such work so

that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Committee.

G. Any change, deletion or addition to the plans and specifications approved by the Committee must be approved in writing by the Committee.

H. The Committee shall have the right to charge a reasonable fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section, which fee shall be payable at the time that the application for approval is submitted to the Committee. The Committee may employ an architect and other design professionals, and the fees for such services shall be included in the review fees.

I. The provisions of this Section do not apply to, and approval of the Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvements made by, or on behalf of, the Declarants.

Section 4.02 – INTENTIONALLY OMITTED.

Section 4.03 - Appointment of Committee. The Association shall establish the Committee to perform the functions of the Committee set forth in this Declaration. The Committee shall consist of not less than three (3) members. From the date of this Declaration until the period ending one (1) year after each Declarant has sold its last Lot, the Declarants shall have the sole right to appoint and remove the members of the Committee. At such time as the Declarants no longer are entitled to or waive their right to appoint members of the Committee, the members of the Committee shall be appointed by the Board. The Declarants may at any time voluntarily surrender their right to appoint and remove members of the Committee, and in that event, the Declarants may require, for a period expiring one (1) year after each Declarant has sold its last Lot, that specified actions of the Committee, as described in a recorded instrument executed by the Declarants, be approved by the Declarants before they become effective.

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Section 4.04 - Determination of Architectural and Landscaping Guidelines. Prior to the termination of the Class "B" Membership, Declarants shall have the right but not the obligation to establish and revise the Architectural and Landscaping Guidelines. The Architectural and Landscaping Guidelines may include supplemental procedures and restrictions for the construction, installation and removal of any Improvements on any Lot. Upon the termination of the Class "B" Membership, the Board shall have the right to make such changes to the Architectural and Landscaping Guidelines as the Board shall deem appropriate. The Committee shall keep and maintain a written record of all actions taken in connection with the Committee.

Section 4.05 - Failure to Approve or Disapprove. All requests for Committee approval pursuant to this Article must be made by an Owner in writing. In the event the Committee fails to approve or disapprove in writing an application for an Improvement, addition or alteration to a Lot within forty-five (45) days after the receipt by the president of the Association and any management company retained by the Association of a complete application, duly prepared in accordance with the rules promulgated by the Declarants or the Board, as the case may be, such application for an improvement shall be deemed disapproved, and the Owner shall be free to resubmit such application to the Committee. If any Owner resubmits an application which was deemed disapproved pursuant to the preceding sentence, and in the event the Committee fails to approve or disapprove in writing such resubmitted application within thirty (30) days after the receipt by the

President of the Association and any management company retained by the Association of a complete resubmitted application, duly prepared in accordance with the rules promulgated by the Declarant or the Board, as the case may be, the application shall be deemed approved by the Committee, provided such improvement, addition or alteration described in the resubmitted application is carried out in precise conformity with such application.

Section 4.06 - Prior Approval. The approval (whether actual or deemed) by the Committee of any plans, drawings or specifications, as the case may be, for a matter requiring the prior written approval of the Committee, shall not be deemed to constitute a waiver of any requirement or restriction imposed by this Declaration, or of any right of the Committee to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

Section 4.07 - Effect of Approval or Disapproval. All decisions of the Committee shall be final, and neither the Declarants the Board, the Committee nor any director, officer, shareholder or member thereof shall have any liability to any Owner or any other party for any damage or loss suffered or claimed on account of: (i) approval or disapproval of any plans, drawings or specifications or any landscape plan; (ii) construction or modification of any Improvement or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or (iii) the development of any property within the Project. Approval of plans and specifications by the Committee is not, and shall not be deemed to be, a representation or warranty, whether express or implied, that said plans and specifications comply with applicable governmental ordinances or regulations, including, without limitation, zoning ordinances and building codes, and industry standards for design or construction.

Section 4.08 - Governmental Approvals. The approval of the Committee required by this Section shall be in addition to, and not in lieu of, any approvals, consents or permits required under the ordinances or rules and regulations of any county or municipality having jurisdiction over the Project.

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ARTICLE 5
EASEMENTS

Section 5.01 - Easements in Common Areas. Each and every Member shall have a nonexclusive perpetual easement of use and enjoyment in and to the Common Areas. Such right and easement of use and enjoyment shall be subject to:

A. The right of the Association to limit the number of guests of Members;

B. The right of the Association to suspend the right of any Member to use the facilities situated upon the Common Areas for any period during which an Assessment against the Member's Lot remains unpaid or for any violation of the Project Documents;

C. The right of the Association to dedicate, transfer or convey, all or any part of the Common Areas to any public agency, authority or utility as provided in this Declaration;

D. The right of the Association to promulgate Rules and Regulations concerning the use of any Common Areas and all facilities located thereon; and

E. All existing easements of record.

Section 5.02 - Blanket Utility Easement. There is hereby created in the Association and all providers to the Project of public utilities a blanket easement upon, across, over and under the Property for ingress and egress for the installation, replacing, repairing and maintaining of all utility and service lines and systems, including but not limited to water, sewer, gas, telephone, electrical, air conditioning, heating, television cable or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company or the Association or their agents to install and maintain facilities and equipment on the Property and to affix and maintain wires, pipes, lines, conduits, ducts, vents, cables, circuits and other appurtenant items on the Property and to trim any tree, shrubbery and other Landscaping which interfere with any such utility facilities. Notwithstanding anything to the contrary contained in this Article, no sewer facilities, electrical lines, water lines or other utility or service lines may be installed or relocated on the Property, except as approved by Declarant, as long as Declarant owns any interest in any Lot or in the Project and, thereafter, except as approved by the Board.

Section 5.03 - Easement for Encroachments. In the event a wall, Landscaping, or other Improvement on a Lot or the Common Area encroaches upon another Lot or the Common Area, and such encroachment is inadvertent and has no significant adverse impact on the adjacent property, an easement for such encroachment is hereby given and the right to determine whether such encroachment causes a significant adverse impact shall be determined by the Committee upon request by either of the parties. When such determination is made by the Committee, that determination shall be binding on all parties. Also, in the event that a Declarant at any time determines that any Improvements within the Project were constructed so as to create an encroachment upon a Lot which causes a significant adverse impact upon the encroached-upon Lot, Declarant shall have the right but not the obligation to cause such encroachment to be eliminated or minimized, and an easement is hereby created in favor of Declarants and their employees, contractors and agents to enter upon the affected Lots to eliminate or minimize such encroachment.

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Section 5.04 - Drainage Easements Among Owners. The Lots are subject to all drainage easements shown on the Plat, if any, and all drainage easements as the Town may hereafter require. In addition, to the extent that storm runoff flows from any Lot(s) or Common Areas under or through one or more other Lots, drainage easements shall exist over such Lot(s) and any such drainage flow shall not be impeded, diverted, or otherwise changed. Such drainage easements shall include, but are not limited to, receiving the runoff from roofs and drainage under and through walls.

Section 5.05 - Association's Easement for Performing Maintenance and Inspections. The Association shall have an easement upon, across, over and under the Common Areas and the Lots for the purpose of repairing, maintaining and replacing Areas of Association Responsibility and for performing all of the Association's other rights, duties and obligations hereunder. In addition, during reasonable hours, the Association or any authorized representative of the Association shall have the right to enter upon and inspect any Lot, excluding the interior of any Improvement located thereon, for the purpose of making inspections to determine whether the provisions of the Project Documents are being complied with by the Owner or Occupants of said Lot.

Section 5.06 - Temporary Easements. Declarants, their agents, employees and contractors shall have a temporary easement upon each Lot and the Common Areas as is necessary for development of adjacent Lots and Common Areas and completion of improvements in public rights-of-way, public utility easements, drainage easements and Common Areas. In addition, Declarants, their agents, employees and contractors shall have a temporary easement upon every Lot and the Common Areas as is necessary to carry out any work required by, convenient to or incidental to carrying out the terms of any warranty.

Section 5.07 - Public Easements. Each Owner who accepts a deed to or any interest in a Lot agrees to recognize and be bound by any open space easements, drainage easements and other easements shown in the Plat or which otherwise exist with respect to the Lot purchased by such Owner or the Common Areas, all in accordance with applicable ordinances and regulations.

Section 5.08 - Perimeter Wall Easements and Maintenance. Each Owner who accepts a deed to a Lot which borders or is adjacent to Recker Road, Ray Road, Garden Circle Drive, San Tan Freeway, Sanders Drive, Wren Drive, Orchid Lane or any other major arterial street which borders the Project and/or which borders or is adjacent to any Common Area tract shall be deemed to grant to the Association a non-exclusive easement for access to, and maintenance and repair of, the perimeter walls for the Project along such roadways and/or any other major arterial street and any Common Area tract, and each Owner of such a Lot shall be responsible for maintaining the interior of any such perimeter wall and shall also be responsible for repairing any damage to such perimeter wall caused by such Owner or its family members, guests, lessees or agents. To the extent any perimeter wall for the Project encroaches upon any Lot, an easement for such encroachment is hereby established over the encroached upon portion of any such Lot for the benefit of the Association.

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Section 5.09 – Avigation Easement. The Property is within two (2) miles of Williams Gateway Airport and is subject to a recorded Avigation Easement and Release for Williams Gateway Airport. Additional information pertaining to aircraft operation and airport development may be obtained by contacting the Williams Gateway Administration Office.

Section 5.10 – Parcel Specific Easements. Article 16 contains additional easements which pertain to certain but not all of the Parcels. In addition, the Tract Declarations and any other supplemental declarations which may hereafter be recorded with respect to any of the Parcels may also create additional easements and restrictions relative to any Parcel (s) which may become subject to such Tract Declarations or other supplemental declarations.

ARTICLE 6
MAINTENANCE

Section 6.01 - Maintenance of Areas of Association Responsibility. The Association, or its duly delegated representative, shall be responsible for the maintenance and repair of (i) the Common Areas and (ii) all other Areas of Association Responsibility. The Association shall also have the right, but not the obligation to undertake any maintenance within the Project as the Board may from time to time determine to be in the best interest of the Association and the Members. The Board shall endeavor to use a high standard of care in providing any maintenance, management and repair, so that the Project will reflect a high pride of ownership.

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Section 6.02 - Maintenance of Lots. No Improvement upon any Lot shall be permitted to fall into disrepair, and all Improvements shall at all times be kept in good condition and repair, adequately painted and otherwise finished. Each Owner shall maintain in good repair the exterior surfaces of each Improvement on said Owner's Lot, including but not limited to walls, roofs, porches, patios and appurtenances. Nothing shall be done in or to any Improvement which will impair the structural integrity of any Improvement except in connection with any alterations and repairs permitted or required by the Committee. In the event of damage or destruction from any cause whatsoever to all or any portion of an Improvement, the Owner of the Lot shall promptly repair, reconstruct or restore the same, or cause the same to be repaired, reconstructed or restored, to the condition existing prior to such damage or destruction. Each Owner shall also maintain in good condition and repair all paved, concrete and other artificially surfaced areas, including driveways and walkways located on the Owner's Lot. Notwithstanding the foregoing or any other provision contained in this Declaration, an Owner shall not be responsible for maintenance of any Areas of Association Responsibility.

Section 6.03 - Maintenance of Landscaping. All lawn areas shall be kept mowed as needed to keep an even, well groomed appearance and shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive and free of weeds. In addition, each Owner of a Lot shall keep all other Landscaping of every kind located on his or its Lot neatly groomed and trimmed (including the pruning of dead wood) according to their plant culture and landscape design, and each Owner shall keep all such Landscaping watered and fertilized at such times and in such quantities as required to keep them alive and attractive and each Owner shall keep all such areas properly cultivated and free of trash, weeds and other unsightly materials. Each Owner shall immediately remove and replace any dead tree, shrub, plant, ground cover or other dead Landscaping on its Lot. All lawn areas on Lots which are visible from adjacent Lots, Roadways or Common Areas must be watered, fertilized and overseeded by the Owner of the Lot as and when necessary in order to maintain a green lawn at all times. If an Owner or Occupant of a Lot fails to comply with this provision, the Association may levy a fine against the violating Lot and its Owner in an amount to be established by the Board. Notwithstanding the foregoing, Owners shall not be responsible for maintenance of any Area of Association Responsibility.

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Section 6.04 - Assessment for Nonperformance of Maintenance. In the event any Owner fails to maintain any portion of its Lot and the Improvements located thereon, the Association, in addition to any other rights available under this Declaration or at law or in equity, shall have the right, but not the obligation, to enter upon such Owner's Lot to perform the maintenance and repairs not performed by the Owner, and the cost of such maintenance and repairs shall be added to and become a part of the Assessment to which such Lot is subject.

Section 6.05 - Assessment for Damage or Destruction. In the event that any Lot or Common Areas are damaged or destroyed through the willful or negligent act or omission of any Owner, Occupant or their pets, guests, licensees or agents and the Association performs the appropriate repairs or replacements as required or permitted herein, the cost to repair such damage or destruction shall be added to and become a part of the Assessment to which such Lot is subject.

Section 6.06 - Maintenance of Fences and Walls other than Common Fences and Walls. Fences and Walls (other than common fences and walls and any perimeter fences included as Areas of Association Responsibility) located on a Lot shall be maintained, repaired and replaced by the Owner of the Lot. Any wall which is placed on the boundary line between a Lot and the

Common Area (other than perimeter fences included as Areas of Association Responsibility) shall be maintained, repaired and replaced by the Owner of the Lot, except that the Association shall be responsible for the repair and maintenance of the side of the fence or wall which faces the Common Area. Common fences and walls are to be maintained in accordance with Article 10 below. Notwithstanding the foregoing or Article 10 below, the maintenance, repair and replacement of fences and walls within any Condominium Development (other than the exterior side and surfaces of perimeter fences and walls described in Section 1.03(vi) of this Declaration) shall be governed by any Condominium Declaration or similar instrument Recorded by Declarants for any such Condominium Development.

ARTICLE 7
HOMEOWNERS' ASSOCIATION

Section 7.01 - Formation of Association. The Association has been or shall be incorporated as an Arizona non-profit corporation to perform and exercise all or any part of the responsibilities and functions granted to the Association under this Declaration and the Project Documents. In the event of any conflict or inconsistency between this Declaration and the Articles, Bylaws, Rules and Regulations, Architectural and Landscaping Guidelines or any other Project Document, this Declaration shall control.

Section 7.02 - Membership. Each Owner shall automatically be a Member of the Association, and upon subsequent transfers of the Owner's Lot, the new Owner shall automatically become a Member of the Association and the former Owner's membership shall automatically cease. Membership shall be appurtenant to and may not be separated from ownership of any Lot and any attempt to transfer membership, other than upon the transfer of the Lot giving rise to the membership, shall be void. Each and every Owner, by accepting its ownership interest in a Lot, agrees to become a Member of the Association and to be bound by the provisions of the Project Documents and this Declaration.

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Section 7.03 - Classes of Membership and Voting Rights. The Association shall have two (2) classes of voting membership designated as Class "A" and Class "B".

A. Class "A" Members shall be all Owners, except a Declarant shall not be a Class "A" Member as long as such Declarant is a Class "B" Member. Each Class "A" member, including Declarants with respect to any Lots owned by Declarants following the termination or relinquishment of such Declarant's Class "B" membership, shall be entitled to one (1) vote for each Lot owned by it. If a Lot is owned by more than one individual Class "A" Member, the Members owning such Lot shall collectively be entitled to cast only one (1) vote for that Lot. The vote for such Lot shall be exercised as the Owners thereof among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

B. The Class "B" Members shall be the Declarants. Each Class "B" Member shall be entitled to three (3) votes for each Lot owned by it. The Class "B" membership shall cease and be converted to Class "A" membership within one hundred twenty (120) days of the first to occur of the following:

(i) The date when seventy-five percent (75%) of the total Lots within the Project are owned by Purchasers; or

(ii) Such time as both Class "B" Members shall elect to convert their Class "B" membership to Class "A" membership and provide the Association with written notifications of such election.

Upon the termination of the Class "B" membership, that membership shall be converted to Class "A" membership and each Declarant, upon the termination of its Class "B" membership, shall thereafter be entitled to one (1) vote for each Lot owned by such Declarant.

Section 7.04 - Duties and Powers of the Association. In addition to the duties and powers enumerated in the Project Documents or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the duty and power to perform the following:

A. Maintain, repair, replace, restore, operate and manage all Areas of Association Responsibility and all Improvements thereon, and all property that may be acquired by the Association;

B. Enforce the provisions of this Declaration by appropriate means, including, without limitation, the expenditure of funds of the Association, the employment of legal counsel and the commencement and prosecution of legal proceedings;

C. Maintain such policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members;

D. Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area and the Lots;

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E. Employ a manager or other persons and contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and the restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project;

F. Pay real property taxes, assessments and other governmental charges attributable to the Common Areas and all other expenses of the Association;

G. Fix, levy, collect and enforce Assessments and fines as set forth in this Declaration and the Rules and Regulations.

H. Pay all expenses and obligations incurred by the Association for the conduct of its business, including, without limitation, all licenses, taxes or governmental charges levied or imposed against the Common Areas and any other property or property rights owned by the Association;

I. Engage in activities which will actively foster, promote and enhance the common interests of the Members;

J. Buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real

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or personal property and any right or interest therein for any purpose of the Association;

K. Borrow money for any purpose as may be limited in the Bylaws;

L. Enter into, make, perform or enforce contracts of every kind and description and to do all other acts necessary, appropriate or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation or other entity or agency, public or private;

M. Dedicate, sell or transfer all or part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association (such sale, transfer or dedication shall be subject to the restrictions and requirements under the applicable laws of Arizona);

N. Exercise any and all powers, rights and privileges provided for in this Declaration; and

O. Have and exercise any and all other powers, rights and privileges and transact any lawful business which nonprofit corporations are permitted to have, exercise or transact under the laws of the State of Arizona, as they may be amended from time to time.

Section 7.05 - Board. The affairs of the Association shall be conducted by the Board which shall be selected in the manner stated in the Project Documents. Each director shall be an Owner of a Lot or the spouse of an Owner, or, if an Owner is a corporation, limited liability company, partnership, trust or other legal entity, a director may be an officer, director, member, partner, beneficiary or authorized agent of such Owner. If a director shall cease to meet such directorship qualifications during his term, he shall automatically cease to be a director and his place on the Board shall be deemed vacant. Notwithstanding the foregoing, as long as there is a Class "B" Membership, directors need not be an Owner of a Lot. Unless the Project Documents specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board.

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Section 7.06 - Rules and Regulations. The Association may from time to time establish such Rules and Regulations as it deems necessary for the conduct and operation of the Project including, by way of illustration and not by way of limitation, Rules and Regulations for the purpose of establishing and maintaining general beautification features within the Project and providing for the health, safety and welfare of Occupants of and visitors to the Project.

Section 7.07 - Availability of Documents. The Association shall make available to all Owners of Lots and prospective purchasers of Lots current copies of the Project Documents; provided, however, the Association may charge any requesting party a reasonable fee for such copies of the Project Documents.

ARTICLE 8
COVENANTS FOR ASSESSMENTS AND CREATION OF LIENS

Section 8.01 - Creation of the Assessment Lien and Personal Obligations for Assessments. Except as set forth in Section 8.08 below, each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (i) regular annual Assessments or charges (**"Annual Assessments"**); (ii) special Assessments for capital improvements and unexpected expenses (**"Special Assessments"**); (iii) any applicable Special Service Area Assessments (as defined below); and (iv) such other Assessments as are provided for herein or in the Project Documents. The Assessments together with interest, collection costs, attorneys' fees, witness fees, court costs and other litigation related expenses which may be incurred by the Association in collecting such amounts or in enforcing all of the rights and remedies provided herein, shall be a charge and a continuing Assessment Lien upon the Lot against which each Assessment is made, and all such amounts shall also be a personal obligation of the Person who was the Owner of such Lot at the time when the Assessment fell due. No Owner of a Lot may exempt himself from liability for his contribution toward the Assessments by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his Lot. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of the alleged failure of the Association or the Board to take some action or perform some function under this Declaration or the Project Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority.

Section 8.02 - Purpose of Assessments. The Assessments by the Association shall be used exclusively for the improvement and maintenance of the Areas of Association Responsibility, the promotion of the recreation, health, safety and welfare of all the residents in the Project, the operation and administration of the Association and for the common good of the Project.

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Section 8.03 - Annual Assessments. The Board shall annually determine and fix the amount of the Annual Assessment against each Lot and shall notify the Owner of each Lot in writing as to the amount of such Annual Assessment not less than thirty (30) days prior to the date that such Annual Assessment is to commence. In addition to including amounts for the estimated common expenses and cash requirements of the Association, each budget shall also provide for a reserve for contingencies and a reserve for replacements, all in such amounts as shall be determined by the Board to be reasonably adequate, taking into account the number and nature of replaceable property within the Areas of Association Responsibility, the expected life of each such item and each item's expected repair or replacement cost. The Board shall cause a statement of the amount of the Annual Assessments for the fiscal year in question to be delivered or mailed to each Owner at least thirty (30) days prior to the commencement of such fiscal year; provided, however, in the event the Board fails to adopt a budget for any fiscal year prior to commencement of the fiscal year, then until and unless a budget is adopted, the budget (and the amount of the Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. The Board shall make available to all Members copies of the budget for the Association. Until January 1 of the year following the conveyance of the first Lot to a Purchaser, the maximum Annual Assessment shall be established by Declarant in its sole discretion. Thereafter, the Annual Assessment may be neither increased by more than twenty percent (20%) above, nor decreased by more than twenty percent (20%) below the Annual Assessment for the previous year, without the

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Section 8.02 - Purpose of Assessments. The Assessments by the Association shall be used exclusively for the improvement and maintenance of the Areas of Association Responsibility, the promotion of the recreation, health, safety and welfare of all the residents in the Project, the operation and administration of the Association and for the common good of the Project.

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vote or written consent of sixty-seven percent (67%) of the membership present and voting at a meeting at which a quorum equal to fifty-one percent (51%) of the Members are present in person or by proxy. Notwithstanding the foregoing, the Board may without the approval of the Members, increase the maximum Annual Assessment for any fiscal year by an amount sufficient to permit the Board to cover any increase over the preceding fiscal year for: (i) premiums for any insurance coverage required by the Declaration to be maintained by the Association; (ii) taxes or other governmental charges on the Common Areas or (iii) charges for utility services necessary to the Association's performance of its obligations under this Declaration. If item (i), (ii) or (iii) in the preceding sentence results in an increase in the maximum Annual Assessment, such increase shall be permitted notwithstanding the fact that the resulting increase in maximum Annual Assessment is at a rate greater than otherwise permitted by the preceding portions of this Section. Nothing herein shall obligate the Board to levy, in any fiscal year, Annual Assessments in the full amount of the maximum Annual Assessment for the fiscal year, and the election by the Board not to levy Annual Assessments in the full amount of the maximum Annual Assessments for the fiscal year shall not prevent the Board from levying Annual Assessments in subsequent years in the full amount of the maximum Annual Assessments for the subsequent fiscal year (as determined in accordance with this Section). In the event that for any fiscal year, the Board elects to levy an Annual Assessment at less than the full amount of the maximum Annual Assessment for the fiscal year, the Board may, if in its reasonable discretion circumstances so warrant, subsequently levy a supplemental Annual Assessment during the same fiscal year so long as the total of the Annual Assessments levied during the fiscal year have not exceeded the maximum Annual Assessments for such fiscal year. All Annual Assessments shall be payable in advance in accordance with such payment schedule as the Board may determine. Upon the transfer of any Lot to a Purchaser, the Annual Assessment shall be prorated through the date of the close of escrow for each Lot based on the number of full and partial months remaining in the then current payment period.

Section 8.04 - Special Assessments. In addition to the Annual Assessments authorized above, the Board may levy in any assessment year a Special Assessment, applicable to that year only, for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas and Areas of Association Responsibility, including equipment, fixtures and personal property related thereto, or to defray any unanticipated or underestimated expenses normally covered by an Annual Assessment, including taxes assessed against the Common Areas, provided, however, that the aggregate Special Assessments for any fiscal year shall not exceed fifty percent (50%) of the budgeted gross expenses of the Association for that Assessment year without the vote or written consent of sixty-seven percent (67%) of the membership present and voting at a meeting at which a quorum equal to fifty-one percent (51%) of the Members are present in person or by proxy.

Section 8.05 – Special Service Area Assessments. If the Board determines, in its sole, absolute and arbitrary discretion, that certain services provided, or to be provided, by the Association benefit any Lots or Parcel(s) in a disproportionate manner, or if a Member or Members owning one or more Parcels or Lots contract with the Association for the Association to provide particular services with regard to such Lots, Parcel or Parcels, the Board shall be entitled to assess special service area Assessments against the Memberships appurtenant to the Lots or Parcels benefitted by such services as determined by this Board (**"Special Service Area Assessments"**). Owners receiving benefits in a disproportionate manner may be located in more than one Special Service Area and, thus, subject to more than one Special Service Area Assessment. As of the date of this Declaration, the only Special Service Area Assessments contemplated to affect any of the

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Lots is the Special Service Assessment which will be assessed against Parcel 2 for the Association's maintenance of the Parcel 2 Common Use and Benefit Areas and Common Area Tracts 2C, 2D, 2E, 2F, 2G, 2H and 2I within Parcel 2. The expenses incurred by the Association to deliver the special services to a Special Service Area **(the "Special Service Area Expenses")** shall be assessed solely against the Lots and Parcels which are benefitted by the special services provided to the Lots and Parcels located in that Special Service Area. Notwithstanding the foregoing, in no event shall any expenses incurred by the Association to maintain Common Areas, including, without limitation, any pools and recreational facilities and the roadways on Common Area tracts be deemed to be Special Service Area Expenses. No Special Service Area Expense shall be used in computing the Annual Assessments to be levied pursuant to Section 8.03 of this Declaration. Special Service Area Assessments shall be levied against the Lots and Parcels located in the particular Special Service Area at a uniform amount per Membership determined in the sole discretion of the Board, with the objective of providing to the Association all funds required to pay all Special Service Area Expenses incurred by the Association in providing the operational, maintenance and other services to the particular Special Service Area. Special Service Area Assessments shall commence upon the date established by the Board. If the Board determines during any assessment period that Special Service Area Assessments with respect to any Special Service Area are, or will become, inadequate to pay for all Special Service Area Expenses pertaining to that Special Service Area for any reason, including, without limitation, nonpayment of Special Service Area Assessments by Members, the Board may increase that Special Service Area Assessment for the assessment period and the revised Special Service Area Assessment shall commence on the date designated by the Board. The amount of any Special Service Area Assessments shall be determined in a manner consistent with the Board's determination of the respective benefits each Parcel receives from such special services.

Section 8.06 - Enforcement Assessments. The Board shall also have the right to levy assessments against an individual Lot and its Owner to reimburse the Association for costs incurred by the Association in connection with its efforts to require that Owner and his Lot to comply with the provisions of this Declaration and the Project Documents or costs incurred by the Association in connection with causing to be done such work as is necessary to bring a Lot into such compliance **(an "Enforcement Assessment")**, and such Enforcement Assessments shall not be subject to the limitations set forth above as to the amount of Special Assessments.

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Section 8.07 - Allocation of Assessments. Except as provided for in Section 8.05 above with respect to a Special Service Area Assessment or Section 8.06 above with respect to an Enforcement Assessment or with respect to Section 8.08 below with respect to Declarant, the Owner of each Lot shall bear an equal share of Assessments.

Section 8.08 - Declarant's Assessments. Notwithstanding any other provision contained in this Declaration, as long as the Class "B" membership is in existence, no Assessments shall be levied against any Exempt Parcels or any Lots or Parcels owned or leased by any Class "B" Member. In lieu thereof, each Class "B" Member agrees that so long as the Class "B" membership is in existence, such Class "B" Member(s) shall subsidize the Association by paying its pro rata share (based on number of Lots owned) of the difference, if any, between the amount of Annual Assessments levied by the Association and the actual cost of operating and administering the Association (other than costs for which a Special Assessment or Enforcement Assessment is levied); provided, however, in no event shall a Class "B" Member's subsidy obligation exceed an amount calculated by multiplying the total number of Lots owned or leased by such Class "B"

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Member(s) by the per-Lot amount of Annual Assessments levied against the other Lots within the Project, which amount is to be adjusted and prorated based upon the actual number of days such Lots are owned or leased by such Class "B" Member(s). Such payments by the Class "B" Members shall be made at such times as the Class "B" Members and the Board shall agree. The Class "B" Member's obligations under this Section may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of both.

Section 8.09 - Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on a monthly basis or such other more frequent basis as may be selected by the Board. Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt Rules and Regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments; provided that the procedures are not inconsistent with this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of its liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than twenty (20) days written notice prior to such foreclosure or enforcement that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during any period for which any such Assessment pertains. Successor Owners of Lots shall be given credit for prepayments of Assessments, on a prorated basis, made by prior Owners.

Section 8.10 - Transfer of Lot by Sale or Foreclosure. Sale or transfer of any Lot shall not affect any Assessment Lien against such Lot. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof. Except for Assessment Liens existing prior to the recording of a First Mortgage, the Assessment Liens provided for in this Declaration shall be junior and subordinate to the lien of any First Mortgage against a Lot, and where the Owner of record acquires title to a Lot as a result of foreclosure of any such First Mortgage, such Owner shall not be liable for the share of the Assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Lot conveyed be subject to an Assessment Lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement, provided, however, the grantee shall be liable for any such Assessments becoming due after the date of any such statement.

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Section 8.11 - Effect of Non-Payment of Assessments; Remedies of the Association. If any part of any Assessment is not paid within fifteen (15) days after the due date provided for herein or otherwise established by the Board, a late fee in an amount established by the Board shall automatically become due and payable by the delinquent Member. In addition, if any part of any Assessment is not paid within fifteen (15) days after the due date, such unpaid Assessment or unpaid portion of an Assessment shall bear interest from the sixteenth (16th) day following the due date until paid at the greater of (i) fifteen percent (15%) per annum or (ii) two percent (2%) per annum over the prime rate of Bank of America or its successor, and the Owner of the Lot subject to such delinquent Assessment shall also be responsible for paying any collection costs, attorneys' fees, witness fees, court costs and other litigation related expenses which may be incurred by the Association in collecting such Assessments or in enforcing any of the Association's rights and remedies set forth herein. Any monies paid by a Member for a delinquent Assessment shall be

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applied first to the principal amount unpaid and then to the late charge and interest accrued. Any Assessment, or any installment of an Assessment, which is delinquent shall be a continuing lien on the Lot against which such Assessment was made. The Assessment Lien may, but need not, be evidenced by the recordation of a "Notice of Claim of Lien" which shall set forth (i) the name of the delinquent Owner as shown on the records of the Association, (ii) the legal description or street address of the Lot against which the claim of lien is made, (iii) the amount claimed as of the date of the recording of the Notice, including late charges, interest, recording fees, collection costs, attorneys' fees, court costs and other litigation related expenses which may be incurred by the Association in collecting such amounts and (iv) the name and address of the Association. Before recording a lien against any Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent assessments, together with late charges and reasonable attorneys' and collection fees, if any. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent assessments, lien fees, late charges and reasonable attorneys fees and/or collection costs have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien. The Assessment Lien on each respective Lot shall be prior to and superior to all other liens except (i) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (ii) the lien or charge of any First Mortgage of record made in good faith and for value. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee's sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, all in connection with a First Mortgage, shall acquire title free and clear of any claims for unpaid Assessments and charges against the Lot which became payable subsequent to the recording of the First Mortgage but prior to the acquisition of such Lot by the First Mortgagee or other Person. An Assessment Lien, when delinquent, may be enforced by sale by the Association in accordance with the provisions of the Arizona Revised Statutes applicable to the exercise of powers of sale in mortgages or deeds of trust, or in any other manner permitted by law; however, the right to foreclose the same shall be in addition to and not in substitution of all of the rights and remedies which the Association and the Board may have in accordance with the provisions of this Declaration or otherwise. The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event the Owner against whom the original Assessment was made is the purchaser or redemptioner, the Assessment Lien shall continue in effect and the Assessment Lien may be enforced by the Association or by the Board for the respective Lot's Assessment that was due prior to the final conclusion of such foreclosure or equivalent proceedings. Further, any such unpaid Assessment shall continue to exist as a personal obligation of the defaulting Owner of the respective Lot to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a Member. Suit to recover a money judgment for unpaid Assessments and attorneys' fees shall be maintainable without foreclosing or waiving the Assessment Lien securing the same.

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Section 8.12 - Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under the Project Documents for a period of fifteen (15) days, said Owner's right to vote as a Member of the Association shall be suspended for

a period not to exceed sixty (60) days for each infraction of the Project Documents, and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current.

Section 8.13 - Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year but may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Section 8.14 - Working Capital Funds. To create a reasonable working capital fund, each initial Owner who purchases a Lot from a Declarant or a Builder shall pay to the Association immediately upon becoming the owner of the Lot a sum equal to one-sixth (1/6) of the then current Annual Assessment against its Lot. Such payment shall be non-refundable and shall be paid in addition to, and shall not be applied against or considered as an advance payment of, any Assessment or transfer fee levied by the Association pursuant to this Declaration. All amounts paid pursuant to this Section may be used as working capital while the Declarants are in control of the Association, and thereafter such amounts, if any then remain, shall be deposited into the Association's reserve account to be applied toward future major repairs and replacements and unbudgeted items, and Declarants and the Association may take such payments into account when determining the amounts to be funded to reserves from other Association funds.

Section 8.15 - Transfer Fee. Each Owner, except for a Declarant, any Owner who purchases its Lot from a Declarant and First Mortgagees, shall pay to the Association immediately upon becoming the Owner of a Lot a transfer fee in an amount determined by the Board but which shall not exceed one-half (1/2) of the then current Annual Assessment against the Lot, which amount shall be used by the Association to cover administrative costs incurred by the Association in connection with such transfer, with any excess amounts, if any, to be used to supplement the Association's reserve fund. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to furnish to a purchaser under A.R.S. § 33-1806(A) and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806(C). The transfer fee shall be in addition to, and shall not be offset against or considered as an advance payment of, any Assessment levied by the Association pursuant to this Declaration, and the payment of such transfer fee shall not entitle an initial Owner to the return of any working capital payments made to the Association pursuant to Section 8.13 above.

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Section 8.16 - Fines. The Association, acting through the Board, shall have the right to adopt a Schedule of Fines for the violation of any provision of the Project Documents by any Owner or such Owner's Lessees, licensees and invitees. No fines shall be imposed without first providing a written warning to the Owner describing the violation and stating that failure to stop the violation within ten (10) days or another re-occurrence of the same violation within six (6) months of the original violation shall make the Owner subject to the imposition of a fine. All fines shall constitute a lien on all Lots owned by the Owner and shall be paid within thirty (30) days following imposition. The failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any Assessments under this Article 8.

Section 8.17 - Books and Records. The Board shall at all times keep true and correct records of account for the Association in accordance with generally accepted accounting principles applied on a consistent basis, and shall furnish for the inspection of all voting Owners at reasonable times such records which shall specify in detail all expenses incurred and funds accumulated from Assessments or otherwise. If a management agent contracts with the Association to perform all or a part of the Association's duties, the management agreement therefore shall require such management agent to maintain records in accordance with the foregoing requirements, and to provide the Board with a report of its activities under such management agreement prior to the close of each fiscal year of the Association, and at such additional times as may be requested by the Board. The information set forth in such report shall be included in the annual budget and report from the Board to the Owners required by Section 8.03 above.

ARTICLE 9
ENFORCEMENT

The Association shall have the right to enforce the restrictions, conditions and covenants set forth herein, and the Association shall be the proper party plaintiff in any legal action initiated to enforce any provision of this Declaration. In the event the Board determines that an Owner is in breach of the Owner's obligations under this Declaration, the Board may give the Owner written notice of its determination, including a reasonably detailed list or description of the repairs, maintenance, work or corrective measure required to cure the Owner's breach. If the Owner does not cure the breach within thirty (30) days after the date of the written notice, the Board, on behalf of the Association, may cause the repairs, maintenance, work or corrective measures to be performed so as to cure the Owner's breach. The Association's costs incurred in performing such work, together with a fee in an amount equal to ten percent (10%) of such amount and any collection costs, attorneys' fees, court costs and other litigation related expenses which may be incurred by the Association in collecting such amounts and enforcing the Association's rights and remedies hereunder, shall constitute a lien on the Owner's Lot, which lien amount shall thereafter bear interest at the rate of ten percent (10%) per annum until paid. The Association shall also have standing and authority to request that a court of competent jurisdiction compel the Owner to cure the breach and to the extent not inconsistent with an order of such a court, the Association may pursue either or both of the courses of action described in this Section. If the Association shall fail or refuse to enforce any of the terms of this Declaration for an unreasonable period of time after being notified of a non-compliance, then any Owner may become a proper party plaintiff.

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ARTICLE 10
COMMON WALLS

Section 10.01 - Use. Each fence which is built upon a Lot and placed on the dividing line between Lots (whether or not located on a property line), shall constitute a common wall and, to the extent not inconsistent with the provisions of this Article, the Owners of contiguous Lots who have a common wall shall both equally have the right to use such common wall, provided such use by one Owner does not interfere with the use and enjoyment of the same by the other Owner.

Section 10.02 - Sharing of Repair and Maintenance. In the event any common wall is damaged or destroyed, including but not limited to deterioration from ordinary wear and tear, but other than by the act of the Owner of another Lot or his agents, guests, family or Lessees, the cost of reasonable repair and maintenance of a common wall shall be shared by the Owners whose Lots

adjoin or benefit from such common wall, at their joint and equal expense; provided, however, that each Owner shall be responsible for all nonstructural work (including painting) necessary to maintain the appearance of the common wall viewable from such Owner's Lot.

Section 10.03 - Negligent Destruction. In the event a common wall is destroyed or damaged through the negligent or willful act of an Owner or any of his agents, guests or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to promptly rebuild or repair the common wall without cost to the other adjoining Lot Owner or Owners.

Section 10.04 - Successor Liability. The provisions of this Article shall be binding upon the heirs and assigns of any Owners, but no person shall be liable for any act or omission or payment obligation respecting the party wall except such as took place while he was an Owner.

Section 10.05 - Consent. In addition to meeting the other requirements of this Declaration (including, without limitation, the requirements contained in Article 4 above) and any other building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a common wall shall first obtain the written consent of the other Owner who shares such Common Wall.

Section 10.06 – Condominium Development Walls and Fences. Notwithstanding the provisions of this Article 10, the maintenance, repair and replacement of common walls within a Condominium Development shall be governed by any Condominium Declaration or similar instrument Recorded by a Declarant for any such Condominium Development.

ARTICLE 11
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INSURANCE

Section 11.01 - Scope of Coverage. Commencing not later than the first to occur of (a) the transfer to and acceptance for maintenance by the Association of any Common Area or (b) the conveyance of a Lot to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

A. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than $1,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and may, at the discretion of the Board, also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner.

B. Property insurance on all Common Areas insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Areas, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy.

C. Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona.

D. Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association and the Owners.

E. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

i) That there shall be no subrogation with respect to the Association, its agents, servants and employees, with respect to Owners and members of their households;

ii) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy;

iii) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners;

iv) Statement of the name of the insured as the Association;

v) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the First Mortgagee or other beneficiary under a deed of trust named in the policy at least thirty (30) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy;

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F. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a policy of flood insurance on the Common Area must be maintained in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other Property covered by the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended; and

G. "Agreed Amount" and "Inflation Guard" endorsements.

Section 11.02 - Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner and First Mortgagee or other beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each First Mortgagee or other beneficiary under a deed of trust to whom certificates of insurance have been issued.

Section 11.03 - Fidelity Bonds.

A. The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, but without limitation, officers, directors and

employees of any management agent of the Association, whether or not they receive compensation for their services. The total amount of the fidelity bond to be maintained by the Association shall be based upon the best business judgment of the Board and shall not be less than the greater of (i) the amount equal to fifty percent (50%) of the estimated annual operating expenses of the Association, (ii) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond, (iii) a sum equal to two (2) months assessments on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association must also meet the following requirements:

(i) The fidelity bonds shall name the Association as an obligee;

(ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and

(iii) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association.

B. The Association shall require any management agent of the Association to maintain its own fidelity bond in an amount equal to or greater than the amount of the fidelity bond to be maintained by the Association pursuant to subsection (A) of this Section. The fidelity bond maintained by the management agent shall cover funds maintained in bank accounts of the management agent and need not name the Association as an obligee.

C. The requirements of this Section 11.03 may be modified from time to time upon the unanimous written consent of all officers and Directors of the Association; provided, however, at all times the Association and/or the management agent for the Association shall maintain customary and reasonable forms and levels of fidelity bonds and/or insurance.

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D. Notwithstanding the provisions in this Section 11.03, no fidelity bonds shall be required to be maintained by the Association (i) as long as the Class "B" membership is in existence or (ii) the funds of the Association are maintained, handled and disbursed solely by a management agent for the Association which maintains a fidelity bond which conforms with the requirements set forth in this Section 11.03.

Section 11.04 - Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Article shall be included in the budget of the Association and shall be paid by the Association.

Section 11.05 - Payment of Insurance Proceeds. With respect to any loss to any Area of Association Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any First Mortgagee or other beneficiary under a deed of trust. Subject to the provisions of Section 11.06 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

Section 11.06 - Repair and Replacement of Damaged or Destroyed Property. Any portion of the Areas of Association Responsibility which is damaged or destroyed shall be repaired or

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replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (ii) Owners representing at least eighty percent (80%) of the total authorized votes in the Association vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas of Association Responsibility shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either (i) be retained by the Association as an additional capital reserve or (ii) be used for payment of operating expenses of the Association if such action is approved by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Association.

Section 11.07 - Insurance Obtained by Owners. Each Owner shall be responsible for obtaining property insurance for its own benefit and at its own expense covering its Lot and all Improvements and personal property located thereon. Each Owner shall also be responsible for obtaining at its expense personal liability coverage for death, bodily injury or property damage arising out of the use, ownership or maintenance of its Lot.

ARTICLE 12
TERM

This Declaration shall remain in full force and effect and shall run with and bind the Property for a term of thirty (30) years from the date hereof. After such thirty (30) year period, this Declaration shall be deemed to have been automatically renewed for successive terms of ten (10) years, unless revoked by an amendment in writing, executed and acknowledged by the then Owners representing not less than eighty percent (80%) of the Lots, or such higher percentage as required by applicable law, which amendment, once executed, must, within sixty (60) days prior to the expiration of the initial period hereof or any ten (10) year extension, be recorded in the Official Records of the county in which the Property is located. Upon the expiration, revocation, termination or revocation of this Declaration, title to the Common Areas shall immediately pass in equal, undivided interests to the Owners, as tenants in common, but each Owner shall nevertheless continue to be individually and collectively liable under the duty to pay its pro rata share of the costs of maintaining the Association Areas of Responsibility, payment of all taxes assessed or due with respect to the Common Areas and securing and paying the premium for comprehensive general liability insurance for all Association Areas of Responsibility. If any Owner does not pay its pro rata share within twenty (20) days following written demand from any other Owner or the city or town within which the Property is located, and if any other Owner or the city or town pays the delinquent Owner's pro rata share, the Person paying such delinquent Owner's pro rata share shall be entitled to assess the delinquent Owner's Lot, impose a lien upon and enforce such lien upon the delinquent Owner's Lot in accordance with the provisions of Article 8 hereof, as if such Person was the Association. The foregoing provisions of this Article shall survive the expiration, revocation, termination or cancellation of this Declaration.

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ARTICLE 13
GENERAL PROVISIONS

Section 13.01 - Amendments.

A. Except for amendments made pursuant to Sections 3.18, 8.03, 8.04, 13.01(B) and 14 of this Declaration, the Declaration may only be amended by the written approval or the affirmative vote, or any combination thereof, of Owners entitled to cast not less than seventy-five percent (75%) of the votes of each class of membership in the Association.

B. Declarants reserve the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally or state chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or any portions thereof. Any such amendment shall be effected by the recording by Declarants of a Certificate of Amendment duly signed by or on behalf of the Declarants, specifying the federal, state or local governmental agency or the federally or state charted lending institution requesting the amendment and setting forth the amendatory language requested or required by such agency or institution.

C. So long as a Declarant owns any Lot, any amendment to this Declaration must be approved in writing by each Declarant.

D. Any amendment approved pursuant to Section 13.01(A) of this Declaration shall be signed by the President or Vice President of the Association and shall be recorded in the Official Records of the county in which the Property is located. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarants pursuant to Section 13.01(B) of this Declaration shall be executed by the Declarants and shall be recorded in the Official Records of the county in which the Property is located.

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Notwithstanding anything in this Declaration to the contrary, Declarants shall, for so long as it possesses the Class "B" Membership, be entitled to unilaterally, without the consent or approval of any other Member or party, amend the Declaration to correct minor errors or omissions.

Section 13.02 - Interpretation of Covenants. Except for judicial construction, the Board shall have the exclusive right to construe and interpret the terms of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction or interpretation of the terms of this Declaration, the Architectural and Landscaping Guidelines, the Rules and Regulations and the Project Documents shall be final, conclusive and binding upon all Persons, any Lot and the Project.

Section 13.03 - Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid, illegal or unenforceable shall not affect the validity, legality or enforceability of the remaining provisions of this Declaration and the same shall remain in full force and effect.

Section 13.04 - References to This Declaration. Any and all instruments of conveyance or lease of any interest in any Lot must contain reference to this instrument and shall be subject to the terms of this Declaration the same as if they were therein set forth in full. Notwithstanding the foregoing, the terms of this Declaration shall be binding upon all Owners and all other persons and entities affected by the same, whether such express reference is made to this Declaration or not.

Section 13.05 - Waiver or Abandonment. The failure to enforce any breach or violation of any of the provisions of this Declaration shall not constitute an abandonment or a waiver of any right to enforce such provision or of any of the other terms hereof.

Section 13.06 - Violation of Law. Any violation of any federal, state, municipal or local law, ordinance or regulation, including zoning laws or ordinances pertaining to the ownership, occupation or use of any Lot is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration.

Section 13.07 - Agents and Committees. The Board shall have the right to appoint agents or committees or both to act on behalf of the Association for the purpose of exercising any right, power or duty given to or imposed upon it by this Declaration.

Section 13.08 - Remedies Cumulative. Each remedy provided by this Declaration is cumulative and non-exclusive.

Section 13.09 - Gender and Number. Whenever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders, words used in the neuter gender shall include the masculine and feminine genders, words used in the singular shall include the plural and words used in the plural shall include the singular.

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Section 13.10 - Captions, Tables and Headings. All captions, titles and headings in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context of the terms of this Declaration.

Section 13.11 - Waiver of Damages. Declarants and the Association and their respective officers, directors, employees and agents shall not be liable for damages to anyone relating in any manner to their actions or failures to act in performing or failing to perform their respective responsibilities and functions under this Declaration by reason of mistake in judgment, negligence, malfeasance or nonfeasance and each and every Owner, by accepting a deed to or acquiring any ownership interest in a Lot, thereby agrees to indemnify and hold harmless the Declarants and the Association and their respective officers, directors, employees and agents in respect to the foregoing, except where such indemnification is contrary to Arizona law.

Section 13.12 – Declarants' Exemption. Nothing contained in this Declaration shall be construed to prevent or materially impair the erection, operation, maintenance, replacement and repair by a Declarant, or its duly authorized agents, of structures, improvements or signs necessary or convenient to the development, administration, management, sale, operation, maintenance and repair of property within the Project. Without limiting the generality of the preceding sentence, Declarant is expressly exempted from the provisions hereof requiring submittals to or authorizations by the Committee, including but not limited to Article 4 hereof. Any provisions of this Declaration which prohibit non-residential use of Lots and regulate parking and vehicles shall not apply to

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Persons engaged in the construction of homes in the Project or the operation by a Declarant of model homes and a sales office within the Project.

Section 13.13 - Indemnification from Common Area Liability. THE OWNERS ACKNOWLEDGE THAT: (1) THE PROPERTY SUBJECT TO THIS DECLARATION CONTAINS COMMON AREAS; (2) THE COMMON AREAS ARE INTENDED SOLELY FOR AESTHETIC PURPOSES AND LIMITED RECREATIONAL USE; (3) THE COMMON AREAS POSSESS CERTAIN INHERENT DANGERS FROM WHICH THE OWNERS MUST TAKE PRECAUTIONS TO PROTECT THEMSELVES, THEIR FAMILIES, INVITEES, GUESTS AND OTHERS; (4) NO SAFETY PERSONNEL WILL PATROL THE COMMON AREAS AND THE OWNERS ASSUME THE RISK AND THE RESPONSIBILITY OF PROTECTING THEMSELVES, THEIR FAMILIES, INVITEES, GUESTS AND OTHERS; AND (5) THE OWNERS WILL INDEMNIFY, DEFEND AND HOLD HARMLESS THE DECLARANTS, THE OFFICERS AND DIRECTORS OF DECLARANTS AND THE ASSOCIATION AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY CLAIMS, DEMANDS, OBLIGATIONS, LIABILITIES, INJURIES, DAMAGES, EXPENSES AND COSTS, INCLUDING INTEREST AND ATTORNEYS' FEES INCURRED BY OR CLAIMED AGAINST THE DECLARANTS, THE ASSOCIATION AND THEIR SUCCESSORS AND ASSIGNS WHICH IN ANY WAY AROSE FROM OR IN CONNECTION WITH THE USE, OPERATION OR MAINTENANCE OF THE COMMON AREAS.

Section 13.14 - Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in, or imposed by, this Declaration, shall be joint and several.

Section 13.15 - Attorneys' Fees. In the event the Association employs an attorney to enforce any lien granted to it under the terms of this Declaration, or to collect any assessments or other amounts due from an Owner, or to enforce compliance with or recover damages for any violation or noncompliance with the Project Documents, the offending Owner or other person or entity shall pay to the Association, upon demand, all attorney fees and court costs incurred by the Association, whether or not suit is filed, which fees and costs shall be secured by the assessment lien.

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ARTICLE 14
GOVERNMENTAL APPROVALS

If certification of the Project is sought by Declarants from the Federal Housing Administration (FHA) or the United States Veterans Administration (VA), the following actions will require the prior approval of the FHA and VA, unless such agencies have waived such requirements or unless the next sentence of this Section applies: (i) annexation of additional properties into the Project; (ii) mergers and consolidations; (iii) mortgaging or otherwise encumbering Common Area; (iv) dedication or other transfer of Common Areas; (v) dissolution of the Association; and (vi) amendment of provisions of this Declaration or other Project Documents to the extent required to be approved by the FHA or VA pursuant to their rules and regulations. Consent of the FHA and VA to the foregoing will not be required if the FHA and VA have elected not to approve the Project for certification or if such approval has been revoked, withdrawn, cancelled or suspended. So long as there is a Class "B" Membership, the Declarants, without the consent of any Owner or First Mortgagee being required, shall have the right to amend this Declaration or any of the other Project Documents in order to conform such documents to the requirements or guidelines of the FHA, VA or any other federal, state or local agency whose approval of the Project, the Plat or the Project Documents is required or is requested by a Declarant.

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ARTICLE 15
ANNEXATION AND DE-ANNEXATION

Section 15.01 – Annexation. Without the consent of any Member or any other party, a Declarant shall have the right to annex all or any portion of the Additional Property into the Project by recording one or more Supplemental Declarations describing the property being annexed. Until the date that is the tenth (10^{th}) anniversary of the recording of this Declaration, a Declarant may annex all or any portion of the Additional Property into the Project without the vote of the Members and without notice to or approval of any other Person. Although a Declarant shall have the ability to annex the Additional Property as provided in this Article, a Declarant shall not be obligated to annex any property. No Additional Property shall become subject to this Declaration unless and until a Supplemental Declaration is recorded as provided in this Article and takes effect. A Supplemental Declaration shall be a writing in recordable form that annexes some or all of the Additional Property to the plan of this Declaration and that incorporates by reference all of the provisions of this Declaration. It shall contain such other provisions as may be appropriate to the property being annexed so long as any such additional provisions are not in conflict with the existing provisions of this Declaration. Recordation of a Supplemental Declaration, as provided for in this Section, shall constitute and effectuate the annexation of the property described in the Supplemental Declaration (unless a later effective date is specified in the Supplemental Declaration) making the property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association and, thereafter, the property described on any Supplemental Declaration shall be part of the Property for all intents and purposes of this Declaration and all of the Owners of Lots in the annexed property shall automatically be Owners under this Declaration.

Section 15.02 – De-Annexation. Notwithstanding any other provision of this Declaration, Declarants shall have the right from time to time, at their sole option and without the consent of any other person (except as provided in this Section, to delete from the Property and remove from the effect of this Declaration one or more Parcels or other portions of the Property; provided, however, that (a) a Parcel or portion of the Property may not be so deleted and removed unless at the time of such deletion and removal such portion is owned by a Declarant or a Declarant executes and records an instrument approving such deletion and removal; (b) a Parcel or portion of the Property may not be so deleted and removed unless at the time of such deletion and removal no Dwelling Unit or Common Area recreational facilities have been constructed thereon; and (c) a portion of the Property may not be so deleted and removed if such deletion and removal would deprive Owners and Occupants of other parts of the Property of access or other easements or rights-of-way necessary to the continued use of their respective parts of the Property (unless a Declarant at the same time provides for reasonably adequate replacement easements or rights-of-way). Declarants may exercise their rights under this Section in each case by executing and causing to be recorded an instrument which identifies the portion of the Property to be so deleted and removed and which is executed by each Owner of such portion (if other than a Declarant), and the deletion and removal of such portion of the Property shall be effective upon the later of (i) the date such instrument is recorded and (ii) the effective date specified in such instrument, if any, whereupon, except as otherwise expressly provided in this Section. The portion of the Property so deleted and removed shall thereafter for all purposes be deemed not to be a part of the Property and not subject to this Declaration, and the owner(s) thereof (or of interest therein shall not be deemed to be Owners or Members or have any other rights or obligations hereunder, except as members of the general public. No such deletion and removal of a portion of the Property shall act to relieve such portion

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from the lien for Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal, and no Assessments or other charges shall thereafter accrue hereunder with respect to the portion of the Property so deleted and removed.

ARTICLE 16
PARCEL SPECIFIC COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

Section 16.01 – Parcel 2 Private Use and Benefit Easements.

A. Creation of Easements. The Lots within Parcel 2 of the Project **(the "Parcel 2 Lots")** are hereby made subject to and there is hereby created a series of perpetual use and benefit easements **(the "Private Use Easements")** over portions of the Parcel 2 Lots for the benefit of the adjacent Parcel 2 Lot(s). The Plat for Parcel 2 **(the "Parcel 2 Plat")** only shows the general and approximate location of the Private Use Easement Areas (as defined below) and the Private Use Easement Areas are shown on the Plat for illustrative purposes only. The length and width of each Private Use Easement Area will be determined by the type and the location of the Living Unit constructed or to be constructed on the adjoining Parcel 2 Lot(s), their setbacks and the placement of the respective Living Units and side yard and return fence walls. The initial location and dimensions of each Private Use Easement Area will be as shown on the building permit plans submitted to the Town for the construction of a Living Unit on a Parcel 2 Lot; provided, however, the final location and dimensions of each Private Use Easement Area will be determined by the as-built location of (a) the walls of the Living Units on adjoining Parcel 2 Lots and (b) the side yard and return fence walls, although Declarants shall have no obligation to prepare, obtain or record any as-built surveys of the Parcel 2 Lots. The effect of the Private Use Easements is to subject a portion of each Parcel 2 Lot to easement(s) in favor of the of the adjacent Parcel 2 Lot(s), but most Parcel 2 Lots also benefit from similar easement(s) over portions of the adjacent Parcel 2 Lot(s).

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B. Private Use Easement Areas. The portions of the Parcel 2 Lots which are subject to the Private Use Easements are referred to herein as **"Private Use Easement Areas"**. When a Parcel 2 Lot is benefitted by a particular Private Use Easement, the Parcel 2 Lot is referred to herein as a **"Benefitted Lot"** with respect to such Private Use Easement. When a Lot is subject to a particular Use Easement in favor of another Lot, the Parcel 2 Lot which is subject to such Private Use Easement is referred to herein as a **"Burdened Lot"** with respect to such Private Use Easement.

C. Example Easement. By way of illustration, a copy of a drawing depicting fictitious lots 97, 98 and 99 is attached hereto as Exhibit "B". As shown on Exhibit "B", portions of lot 98 is subject to Private Use Easements which are created for the benefit of lot 99, but the Owner of lot 98 is entitled to the use of the adjoining Private Use Easement Area on lot 97 as shown on the drawing. Thus, lot 98 is a Burdened Lot with respect to some areas depicted on Exhibit "B" and a Benefitted Lot with respect to other areas depicted on Exhibit "B".

D. Use of Private Use Easement Areas by Benefitted Owner.

(i) The Owner of a Benefitted Lot shall have the exclusive right to enter onto the Private Use Easement Area of a Burdened Lot and use the Private Use Easement Area for garden, back yard and drainage purposes. Landscaping (including flowers, plants, lawn and sprinklers) may be installed, kept and maintained in the Private Use Easement Area; provided,

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however, no Landscaping shall be planted within three feet (3') of the foundation of the Living Unit on the Burdened Lot. The Private Use Easement Area may also be used to locate readily movable outdoor furniture, portable barbecue equipment and other portable items. Except as provided in Subsections 16.01(D)(ii) and 16.01(E) below, the Owner of a Benefitted Lot shall have the exclusive right to use the Private Use Easement Area on the adjacent Burdened Lot and the Owner of a Burdened Lot shall not use such area or interfere with the use of the Private Use Easement Area by the Owner of the adjacent Benefitted Lot. Thus, in the example attached hereto as Exhibit "B", the owner of fictitious lot 98 would have the right to use the Private Use Easement Areas depicted on Exhibit "B" as being for the benefit of fictitious lot 98 even though such Private Use Easement Area is located within the boundaries of lot 97. The Owner of a Benefitted Lot shall be responsible for the upkeep and repair of the Private Use Easement Area created for its benefit on the adjoining Burdened Lot.

(ii) Except as provided in Subsection 16.01(D)(i) above, without the consent of the Committee, a Private Use Easement Area shall not be used for (a) any permanent installation of any kind, including, but not limited to a patio, barbecue structure, swimming pool, swimming pool heating or filtering equipment, spa or plumbing fixtures or equipment other than sprinklers; (b) planting of any grass, trees or large bushes or shrubs; or (c) erection or maintenance of any structure or landscaping which may impede or interfere with any necessary maintenance, repair or restoration of any common or party wall. No use shall be made of a Private Use Easement Area which will become an annoyance or nuisance to the Owner of the adjacent Burdened Lot. The Owner of a Benefitted Lot shall not construct a fireplace, planter box, barbecue, wall, fence, fountain or other structure which is to attach or connect to the wall of the Living Unit on a Burdened Lot. Without the prior written approval of the Committee, no Landscaping, walls or other Improvements shall be constructed within any Private Use Easement Area before the Living Unit on the adjoining Burdened Lot has been constructed.

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E. Use of Private Use Easement Area by Burdened Lot Owner.

(i) The grant of each Private Use Easement is subject to the right of the Burdened Lot Owner to utilize the Private Use Easement Area for (a) locating any fireplace chimney which is attached to the Living Unit located on the Burdened Lot, (b) drainage from the roof of the Living Unit constructed on the Burdened Lot onto the Private Use Easement Area; (c) maintenance, repair and replacement of the wall, roof eaves and any fireplace chimneys of the Living Unit constructed on the Burdened Lot and any authorized common or party wall constructed along or within the Private Use Easement Area; and (d) drainage over, across and upon the Private Use Easement Area for water resulting from the normal use of the Burdened Lot. Thus, in the example attached hereto as Exhibit "B", the owner of fictitious lot 98 would not have the right to use the Private Use Easement Area depicted on Exhibit "B" as being for the benefit and use of lot 99 even though that Private Use Easement Area is located within the boundary of fictitious lot 98, except for the uses set forth in this Section 16.01(E). Except in the event of an emergency, prior to entering a Private Use Easement Area for permitted maintenance purposes, the Owner of the Burdened Lot shall notify the Owner of the Benefitted Lot and shall schedule a mutually convenient time to perform said maintenance. The Owner of the Burdened Lot shall have no liability for damage to or removal of any decoration or Landscaping within the Private Use Easement Area which is necessarily occasioned by such repair, maintenance or restoration, but the Owner of the Burdened Lot shall use reasonable care to avoid damage to any furniture, fixtures or equipment and Landscaping within the Private Use Easement Area. Any improvements which are permitted to be constructed, installed or located on or in a Private Use Easement Area must be constructed or installed in a manner that

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will not impede drainage from the Burdened Lot. Each Benefitted Lot Owner, as part of its obligation to maintain, repair and paint its Living Unit, shall be responsible for the maintenance, repair and painting of the house wall and other components of the Benefitted Lot Owner's Living Unit which adjoins the Private Use Easement Area. However, in no event shall the Owner of the Benefitted Lot perform any repair, maintenance or painting of the house wall or other components of the Living Unit on the Burdened Lot which adjoins the Private Use Easement Area. Without the consent of the Committee, no doors, windows or openings of any kind shall be constructed, kept or maintained in any Living Unit wall which adjoins a Private Use Easement Area.

(ii) Each Burdened Lot Owner shall also have the rights and privileges with respect to the installation and maintenance of utility lines and facilities within the Private Use Easement Area on its Lot. Subject to the provisions of this Declaration and any other interest affecting title to any Parcel 2 Lot, the Burdened Lot Owner, the Town and applicable utility providers and their respective contractors, agents and employees shall have the right to install and maintain utility lines and facilities for the benefit of a Burdened Lot within that part of the Private Use Easement Area on the adjoining Benefitted Lot which is situated within approximately five feet (5') of the Living Unit on the Burdened Lot and within approximately five feet (5') of the common wall which separates the side and rear yards of the Benefitted Lot and the Burdened Lot (**the "Easement Construction Area"**). An easement is hereby granted to the Town and all applicable utility providers and their respective contractors, agents and employees upon, over, across and through the Private Use Easement Area on the Burdened Lot and upon, over, across and through the immediately adjacent five (5) foot area of the adjoining Benefitted Lot for the sole purposes of permitting access by such parties to the Easement Construction Area to facilitate the installation, maintenance and repair of utility lines and facilities within the Easement Construction Area. In addition, each Owner of a Burdened Lot shall have the right to enter onto the Private Use Easement Area on its Lot and onto the immediately adjacent five (5) foot area on the adjacent Benefitted Lot for the purpose of facilitating the installation, maintenance and repair of utility lines and facilities which serve its Parcel 2 Lot and which are or will be situated within the Easement Construction Area on its Parcel 2 Lot. Each Burdened Lot Owner shall immediately restore to its previous condition the Private Use Easement Area on its Parcel 2 Lot and any part of the adjoining Benefitted Lot which may be disturbed or damaged in connection with any access made pursuant to this Subsection 16.01(E)(ii) or in connection with the installation, maintenance and repair of utility lines and facilities within the Easement Construction Area by or for the benefit of such Burdened Lot Owner. Furthermore, each Burdened Lot Owner shall indemnify, protect, defend and hold harmless the Owner of the adjoining Benefitted Lot for, from and against any and all claims, demands, obligations, losses, damages, costs and liabilities (including, but not limited to, court costs and reasonable attorneys' fees) which may at any time arise or be imposed upon or incurred by such Owner of the adjoining Benefitted Lot as a result of the entry by the Owner of the Burdened Lot or by an entry made for the benefit of or on behalf of such Owner onto the adjacent Benefitted Lot or the Private Use Easement Area on its Parcel 2 Lot pursuant to this Section 16.01(E)(ii).

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F. Approvals and Consents. Notwithstanding anything contained herein to the contrary, the Owner of a Benefitted Lot shall not construct any Improvements on, in or about the Private Use Easement Area without the approval of the Committee. The Benefitted Lot Owner shall also obtain whatever permits or other consents may be required by law to construct such Improvements. Without limiting the foregoing, Owners will need to obtain building permits from the Town in constructing various of the Improvements which are permitted in the Private Use Easement Areas.

G. Insurance for Private Use Easement Areas. Each Owner of a Benefitted Lot shall obtain and maintain in force at all times a comprehensive general liability insurance policy insuring against liability incident to the use and occupancy of the Private Use Easement Area appurtenant to that Benefitted Lot by that Owner and that Owner's Occupants, family members, invitees, agents and contractors. Said policy shall designate as additional named insured(s) the Owner of the adjoining Burdened Lot. The limits of such insurance shall be not less than three hundred thousand dollars ($300,000) covering all claims for death of or injury to any person and/or property damage in any single occurrence, but the Board may from time to time, in its discretion, by written notice to all Owners of Parcel 2 Lots, require that the amount of such insurance be increased.

H. Indemnity. Except as provided in Section 16.01(E)(ii) above, the Owner of a Burdened Lot shall not be liable for any loss, cost, damage or expense arising out of any accident or other occurrence causing death of or injury to any person and/or damage to any property by reason of the use of any Private Use Easement Area located upon the Burdened Lot, and the Owner of each adjoining Benefitted Lot agrees to indemnify and hold harmless the Owner of each adjoining Burdened Lot, its heirs, successors and assigns for, from and against each and every loss, cost, damage and expense, including attorneys' fees, arising from such accident and occurrence.

I. Appurtenant Easements. Each Private Use Easement shall be appurtenant to the applicable Benefitted Lot, shall run with the ownership of the applicable Benefitted Lot and shall inure to the benefit of the Owner of the applicable Benefitted Lot, its heirs, successors and assigns. The rights and obligations of the Owner of the applicable Burdened Lot shall run with the ownership of the applicable Burdened Lot.

J. Enforcement. Notwithstanding any provisions of this Declaration to the contrary and notwithstanding any provision of applicable law regarding the enforcement of this Declaration by Declarant or the Association, the terms and provisions of this Section 16.01 shall not create, impose or imply any duty or obligation of either Declarant or the Association to enforce or compel compliance with the provisions of this Section 16.01 by any Owner or group of Owners. Any Owner may seek to enforce or compel compliance with the provisions of this Section 16.01 as its individual power or right. Declarant or the Association, as applicable, may enforce or compel compliance with the terms and provisions of this Section 16.01 without any obligation to do so.

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Section 16.02 - Parcel 2 Common Use and Benefit Easements. All Parcel 2 Common Use and Benefit Areas are herein made subject to and there is hereby created a non-exclusive perpetual easement of use and enjoyment in and to such Parcel 2 Common Use and Benefit Areas for the benefit of all Parcel 2 Owners and Occupants, and such right and easement of use and enjoyment shall be subject to:

A. The right of the Association to promulgate rules and regulations concerning the use of any such Parcel 2 Common Use and Benefit Areas and all Improvements located thereon; and

B. All existing easements of record.

Section 16.03 - No Parking on Parcel 2 Private Driveways. Parking of vehicles within Parcel 2 shall be limited to areas designated on the Parcel 2 Plat as parking areas or designated by the

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Board as parking areas within Parcel 2 and to driveways and garages on each Parcel 2 Lot, and in no event shall any vehicle be parked within the private Roadways within Parcel 2.

Section 16.04 – Shared Driveway Easements. Where a Declarant, a Declarant's Affiliate or a Builder constructs driveways on adjacent Lots in such a manner so that such driveway is to be shared by the Owners and/or Occupants of adjacent Lots **(a "Shared Driveway")**, a perpetual non-exclusive easement **(the "Driveway Easement")** shall exist over the Shared Driveway for the purpose of providing the Owners and Occupants of the adjacent Lots served by the Shared Driveway and their respective guests, invitees and agents **(collectively, the "Benefitted Parties")** with the right to use the Shared Driveway for all permitted driveway purposes. Such Shared Driveways will exist on certain Lots within Parcels 4 and 6. Each Driveway Easement shall be subject to the following provisions:

A. A Shared Driveway may not be used in any fashion which impedes or unreasonably interferes with any Benefitted Parties' permitted use or enjoyment of the Shared Driveway. Furthermore, no use shall be made of a Shared Driveway which could reasonably be deemed to be an annoyance or nuisance to the Owner or Occupants of the adjacent Lot with whom the Shared Driveway is shared.

B. Subject to the provisions of Section 3.06 of this Declaration, a Benefitted Party may not park on any part of a Shared Driveway which is not located on the Lot owned or occupied by the Benefitted Party or which is not on the Lot which the Benefitted Party is visiting.

C. The cost of repair and maintenance of a Shared Driveway shall be shared equally by the Owners whose Lots share the Shared Driveway. However, in the event a Shared Driveway is damaged or destroyed through the negligent or willful acts of an Owner **(the "Responsible Owner")** or through the negligent or willful acts of any Occupant, guest, invitee or agent of such Responsible Owner (whether or not such act is negligent or otherwise culpable), it shall be the obligation of the Responsible Owner to promptly repair or replace the Shared Driveway at its sole cost and without cost to the other adjoining Lot Owner. Any disputes between Owners involving the need to repair or replace a Shared Driveway or the payment of costs associated with the maintenance, repair and replacement of Shared Driveways shall be resolved by the Committee.

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D. Any modifications and replacements of any Shared Driveway shall be subject to the requirements of Article 4 of this Declaration, and any Owner proposing to modify or replace any Shared Driveway shall first obtain the written consent of the Owner of the adjacent Lot which shares the Shared Driveway.

E. Except as provided in Section 16.04(C) above, an Owner of a Lot who shares a Shared Driveway shall not be liable for any loss, cost, damage or expense arising out of any accident or occurrence causing death of or injury to any Person and/or damage to any property which arises as a result of the use of the Shared Driveway by the Owner of the adjacent Lot or by such adjacent Lot Owner's guests, Occupants, invitees or agents. The Owner of any Lot who causes or whose Occupants, guests, invitees or agents cause damage or an accident, event or occurrence to occur on a Shared Driveway agrees to indemnify and hold harmless the Owner of the adjacent Lot which shares the Shared Driveway and such adjacent Owner's Occupants, guests, invitees, heirs, successors and assigns for, from and against each and every claim, demand, loss, cost, damage and expense (including attorneys' fees) arising from any such accident, event or occurrence. Furthermore, each Owner and Occupant of a Lot which shares a Shared Driveway hereby releases Declarant and any Declarant's Affiliate from any and all obligations and liability

related to any accidents, acts or occurrences which may occur on any Shared Driveway, and each such Owner and Occupant shall indemnify, protect, defend and hold harmless Declarant and any Declarant's Affiliate and Builder from any and all claims, demands, obligations, losses, damages, costs and liabilities which may at any time arise or be imposed as a result of the use of the Shared Driveway.

F. Each Driveway Easement shall be appurtenant to the applicable Lots which share a Shared Driveway, shall run with the ownership of such Lots and shall inure to the benefit of the Owners of such Lots and their respective Occupants, guests, invitees, heirs, successors and assigns.

G. Neither the Association, Declarants, any Declarant's Affiliate or Builder shall have any obligation to administer or enforce the provisions contained in this Section 16.04, and none of the foregoing parties shall have any liability for the failure of any person to enforce them.

Section 16.05 – Park Strips. With respect to Lots within Parcels 1, 3, 4, 6 and 7, the Landscaping obligations and requirements of each Owner of a Lot within such Parcels shall include all Landscaping within areas between the sidewalks and the curbs within the right-of-way on or adjacent to such Owner's Lot **(a "Park Strip")**. The Architectural Landscaping Guidelines require that at least two (2) evergreen elm trees are to be installed and maintained within the Park Strip on Lots within Parcels 4 and 6 of the Project, and at least one (1) such evergreen elm tree shall be installed and maintained within the Park Strip on Lots within Parcels 1, 3 and 7 of the Project. Each Owner shall be required to replace any trees within the Park Strip on its Lot which may die with trees of the same species, and the minimum permissible size of any such replacement trees shall be fifteen (15) gallons. No grass may be planted within any of the Park Strips, and all such Park Strips shall be maintained by the Owner of the Lot on which it is located in a grass and weed-free manner. In the event any Owner fails to comply with the obligations in this Section 16.05, the Association shall have all rights and remedies provided for in this Declaration.

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ARTICLE 17
RESOLUTION OF DISPUTES WITH DECLARANTS REGARDING DEVELOPMENT AND CONSTRUCTION MATTERS

It is the Declarants' intent that all Improvements constructed by Trend Homes, Classic Communities and any other builder who may construct a home within the Project **(each, a "Builder" and, collectively, the "Builders")** shall be built in compliance with all applicable building codes and ordinances and will be of a quality that is consistent with good construction and development practices. Nevertheless, disputes may arise as to whether a defect exists with respect to the construction by a Builder of any of the Improvements constructed within the Project and a Builder's responsibility therefor. It is the intent of the Builders that all disputes and claims regarding Alleged Defects (as defined below) be resolved amicably, and without the necessity of time-consuming and costly litigation. Accordingly, the Association, the Board of Directors, the Builders and all Owners shall be bound by the following claim resolution procedures, provisions and limitations:

Section 17.01 – Limitation on Owners' Remedies. In the event that the Association, the Board or any Owner **(collectively, "Claimant")** claims, contends or alleges that any portion of a Living Unit, a Condominium Unit, the Common Areas or any other part of the Condominium Development and/or any other Improvements constructed within the Project is defective or that one or more of the Builders, their agents, consultants, contractors or subcontractors **(collectively,**

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"Agents") were negligent in the planning, design, engineering, grading, construction or other development thereof **(collectively, an "Alleged Defect")**, the only right or remedy that any Claimant shall have with regard to any such Alleged Defect is the right to have the Alleged Defect repaired and/or replaced by the Builder which was responsible for the construction of the Improvement which is the subject of the Alleged Defect, but such right or remedy shall only be available if and to the extent such Builder is, at that time, still obligated to repair such Alleged Defect pursuant to applicable statutes or common law or pursuant to any applicable rules, regulations and guidelines imposed by the Arizona Registrar of Contractors **(the "Applicable Laws")**. By accepting a deed to a Lot, each Owner shall, with respect to any Alleged Defect(s), be deemed to have waived the right to seek damages or other legal or equitable remedies from any Builder or from any affiliates, subcontractors, agents, vendors, suppliers, design professionals and materialmen of any Builder under any common law, statutes and other theories of liability, including, but not limited to, negligence, tort and strict liability. Under no circumstances will any Builder or Declarant be liable for any consequential, indirect, special, punitive or other damages, including, but not limited to, any damages based on a claim of diminution in the value of the Claimant's Lot and each Owner, by accepting a deed to a Lot, shall be deemed to have waived its right to pursue any such damages. It shall be a condition to a Claimant's rights and a Builder's obligations under this Article that the Claimant fully and timely abide by the requirements and conditions set forth in this Article. To accommodate the Builders' right to repair and/or replace an Alleged Defect, the Builders hereby reserve the right for themselves to be notified of all such Alleged Defects and to enter onto Lots and the Project to inspect, repair and/or replace such Alleged Defect(s) as set forth herein.

Section 17.02 – Notice of Alleged Defect. In the event that a Claimant discovers any Alleged Defect, Claimant shall notify the Builder which constructed the Improvement which is the subject of the Alleged Defect, in writing within fifteen (15) days of discovery of the Alleged Defect, and of the specific nature of such Alleged Defect **("Notice of Alleged Defect")**.

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Section 17.03 - Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by a Builder of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by a Builder, such Builder shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Lot, Living Unit, Condominium Unit, Common Area or other part of the Project as may be necessary or appropriate for the purposes of inspecting and/or conducting testing and, if deemed necessary by the Builder, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacements, Builder shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances to repair or correct any such Alleged Defect.

Section 17.04 - No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section shall be construed to impose any obligation on Builders to inspect, test, repair or replace any item or Alleged Defect for which Builders are not otherwise obligated to do so under Applicable Laws or by contract. Specifically, a Builder's obligation to repair and/or replace an Alleged Defect shall expire on the applicable date which the Applicable Laws specify or recognize as the date(s) through which a contractor is responsible for such Alleged Defect. The right of Builders to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and recorded by Builders.

Section 17.05 - Tolling of Statutes of Limitations. In no event shall any statutes of limitations be tolled during the period in which a Builder conducts any inspection or testing of any Alleged Defects.

Section 17.06 - Legal Actions. All legal actions initiated by a Claimant shall be brought in accordance with and be subject to Sections 17.07 (Binding Arbitration) and 17.08 (Approval of Litigation) of this Declaration. In the event the Claimant is the Association, the Association must provide written notice to all Members prior to initiation of any proceeding or arbitration against a Builder which notice shall (at a minimum) include (i) a description of the Alleged Defect; (ii) a description of the attempts of the affected Builder to correct such Alleged Defect and the opportunities provided to the affected Builder to correct such Alleged Defect; (iii) a certification from an engineer licensed in the State of Arizona, confirming its opinion of the existence of such Alleged Defect and a resume of such engineer; (iv) the estimated cost to repair such Alleged Defect; (v) the name and professional background of the attorney retained by the Association to pursue the claim against the Builder and a description of the relationship between such attorney and member(s) of the Board, if any; (vi) a thorough description of the fee arrangement between such attorney and the Association; (vii) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against Builder(s) and the source of the funds which will be used to pay such fees and expenses; (viii) the estimated time necessary to conclude the action against Builder; and (ix) an affirmative statement from the Board that the action is in the best interests of the Association and its Members. In the event the Association recovers any funds from Declarant(s) (or any other Person) to repair an Alleged Defect, any excess funds remaining after repair of such Alleged Defect shall be paid into the Association's reserve fund.

Section 17.07 - Binding Arbitration. In the event of a dispute between or among a Builder, its contractors, subcontractors or brokers or their agents or employees, on the one hand, and any Owner or the Association, on the other hand, regarding any controversy or claim between the parties, including any claim based on contract, tort, statute or any other theory of liability arising out of or relating to the rights or duties of the parties under this Declaration, the design or construction of the Project, any Living Unit, Condominium Unit, any Common Area or any part of the Condominium Development or an Alleged Defect, the matter shall be resolved by binding arbitration conducted in accordance with the following rules:

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A. Initiation of Arbitration. The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the American Arbitration Association **("AAA")** Commercial Arbitration Rules, as amended from time to time **(the "AAA Rules")**.

B. Governing Procedures. The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. §12-1501 *et seq.* In the event of a conflict between the AAA Rules and this Section, the provisions of this Section shall govern.

C. Appointment of Arbitrator. The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection is referred to in this Section as the **"Arbitrator"**.

D. Qualifications of Arbitrator. The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.

E. Disclosure. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in subsection 17.07(C) above.

F. Compensation. The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's hourly rate not to exceed three Hundred Dollars ($300) per hour, unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

G. Preliminary Hearing. Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Guidelines, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts and whether, if this is done, engagement of experts by the Parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viiii) any other matters which may promote the efficient, expeditious and cost-effective conduct of the proceeding.

H. Management of the Proceedings. The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

I. Confidentiality. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties and the parties attorneys and expert witnesses (where applicable to their testimony), except that, upon the prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

J. Hearings. Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

K. Final Award. The Arbitrator shall promptly, within sixty (60) days of the conclusion of the proceedings or such longer period as the parties mutually agree, determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration and other relevant factors. The Arbitrator shall have absolutely no ability or authority to award any damages of any kind except for the actual cost to repair any defect for which a Builder is found to be responsible and which such Builder fails to correct. Accordingly, except for the actual damages referred to in the preceding sentence, the Arbitrator shall not award

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indirect, consequential, special, punitive or other damages. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

L. Statute of Limitations. All statutes of limitation applicable to claims which are subject to binding arbitration pursuant to this Section shall apply to the commencement of arbitration proceedings under this Section. If arbitration proceedings are not initiated within the applicable period, the claim shall forever be barred.

Section 17.08 – Approval of Litigation. The Association shall not incur attorneys' fees or other legal expenses in connection with legal proceedings or arbitration proceedings initiated by the Association or in connection with legal proceedings or arbitration proceedings in which the Association is joined as a plaintiff without the written approval of Owners holding more than two-thirds (2/3) of the total votes in the Association, excluding the vote of any Owner who would be a defendant in such proceedings. The Association must finance any legal proceeding with monies that are specifically collected for same and may not borrow money or use working capital or reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal proceedings, all Owners must notify prospective purchasers of such legal proceedings and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 17.02 of this Declaration. This Section shall not apply to legal proceedings initiated by the Association to collect any unpaid Assessments levied pursuant to this Declaration.

Section 17.09 – Repurchase Option for Alleged Defect Claims. Notwithstanding anything in this Declaration to the contrary, in the event any Owner, either directly or through the Association, shall commence an action against a Builder in connection with any Alleged Defects in such Owner's Living Unit or Condominium Unit (the "Unit"), the Builder (or any assignee of such Builder) that constructed and/or sold such Unit shall have the option (but not the obligation) to purchase such Unit on the following terms and conditions:

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A. The purchase price shall be an amount equal to the sum of the following less any sums paid to such Owner under any homeowner's warranty in connection with the Alleged Default:

(i) The purchase price paid to the Builder by the original Owner of the Unit which purchased the Unit from a Builder

(ii) The value of any documented Improvements made to the Unit by third-party contractors or decorators that added an ascertainable value to the Property;

(iii) The Unit Owner's reasonable moving costs; and

(iv) Any closing costs, including loan fees and/or "points" incurred by the Unit Owner in connection with the purchase of another primary residence within ninety (90) days after the closing of the repurchase provided for herein.

B. Close of escrow shall not occur later than forty-five (45) days after written notice from Builder to the Unit Owner of Builder's intent to exercise the option herein.

C. Title shall be conveyed to the applicable Builder free and clear of all monetary liens and encumbrances other than non-delinquent real estate taxes.

D. All closing costs in connection with the repurchase shall be paid by the applicable Builder.

E. Exercise of the repurchase option as provided hereinabove shall constitute full and final satisfaction of all claims relating to the subject Unit, including claims relating to the Alleged Defect. The Unit Owner (or Association, as applicable) shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

Section 17.10 – As-Built Conditions. Various engineering and architectural plans pertaining to the Project, including, but not limited to, the Plat, subdivision maps, grading plans, plot plans, improvement plans and building plans **(collectively, the "Plans")**, contain dimensions regarding certain aspects of the Units, Common Areas and other parts and aspects of the Project. By accepting a deed to a Unit, each Unit Owner shall be deemed to have acknowledged and agreed that (a) if there is a discrepancy between the Plans and the actual as-built conditions of any Unit, Common Area or any other Improvement within the Project, the as-built conditions will control and be deemed to be accepted as-is by the Unit Owner; (b) the usable or buildable area, location and configuration of the Units, Common Areas and any other Improvements located within the Project may deviate from the Plans or from any other display or configuration related thereto; (c) the location, size, height and composition of all walls and fences to be constructed on or as part of a Unit or adjacent thereto shall be determined by Builders in their sole and absolute discretion. Despite the Plans or any other materials that may exist, Builders shall be deemed to have made no representations, warranties or assurances with respect to any such matters or with respect to the size, height, location or composition of any wall or fence to be constructed on or adjacent to any Units; and (d) each Unit Owner waives the right to make any demands of or claims against Builders as a result of any discrepancies between the Plans any actual as-built conditions of any Unit.

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Section 17.11 - Limitation on Declarants' and Builders' Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner, and each other person, by acquiring any interest in the Project, acknowledges and agrees, that neither Declarants nor Builders (including, but not limited to, any assignee of the interest of a Declarant or a Builder) nor any partner, shareholder, officer, director, employee or affiliate of a Declarant or a Builder shall have any personal liability to the Association, or to any Owner, Member or other person, arising under or in connection with this Declaration or resulting from any action or failure to act with respect to this Declaration, the Association or the Committee except, in the case of Declarants and Builders (or their assignees), to the extent of their respective interests in the Project; and, in the event of a judgment against any such parties no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor. Neither Declarants nor the Association shall be liable for any theft, vandalism, disturbance, accident, unauthorized entrance or other similar occurrence or breach of the peace or security which may occur or take place within the Project. \\\

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the date first written above.

KEY CONSTRUCTION, INC., an Arizona corporation dba Trend Homes

By _____

Its Sec/Treas.

CLASSIC COMMUNITIES, INC., an Arizona corporation

By _____

Its Asst. Sec.

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 3rd day of December, 2001, before me personally appeared Shawn Porter, the Sec/Treas. of Key Construction, Inc., an Arizona corporation dba Trend Homes, known to me to be the person whose name is subscribed to the foregoing Covenants, Conditions and Restrictions, and being authorized to do so, acknowledged that he executed the same for the purposes contained therein.

Unofficial Document

Teri W. Black
Notary Public

My Commission Expires:
7/1/03

OFFICIAL SEAL
TERI W. BLACK
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires July 1, 2003

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 31 day of December, 2001, before me personally appeared Shawn Porter, the Assistant Secretary of Classic Communities, Inc., an Arizona corporation, known to me to be the person whose name is subscribed to the foregoing Covenants, Conditions and Restrictions, and being authorized to do so, acknowledged that he executed the same for the purposes contained therein.

J. Ellen Manion
Notary Public

My Commission Expires:
3-12-05

OFFICIAL SEAL
J. ELLEN MANION
Notary Public - State of Arizona
MARICOPA COUNTY
My Comm. Expires March 12, 2005

RATIFICATION BY LIENHOLDER

The foregoing Declaration of Covenants, Conditions, Restrictions and Easements for The Gardens is hereby ratified and approved by Ohio Savings Bank, a federal savings bank, the beneficiary under that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated April 17, 2001 and recorded on May 3, 2001, as Document No. 2001-0371017 in the Official Records of Maricopa County, Arizona.

DATED this 10th day of January, 2002.

OHIO SAVINGS BANK, a federal savings bank

By Susan Conrad

Its Vice President

STATE OF ARIZONA)
) ss.
County of Maricopa)

Unofficial Document

On this 10TH day of JANUARY, 2002 before me personally appeared SUSAN CONRAD, the VICE PRESIDENT of Ohio Savings Bank, a federal savings bank, known to me to be the person whose name is subscribed to the foregoing Ratification by Lienholder of the Declaration of Covenants, Conditions, Restrictions and Easements, and being authorized to do so, acknowledged that he/she executed the same for the purposes contained therein.

Gloria Owens
Notary Public

My Commission Expires:
JAN. 6, 2004

Gloria Owens
NOTARY PUBLIC -- ARIZONA
MARICOPA COUNTY
My Commission Expires
January 6, 2004

EXHIBIT "A"

THE PROPERTY

Parcel 1, according to the plat for THE GARDENS, PARCEL 1, recorded in Book 557 of Maps, Page 34, and as Document No. 2001-0218859 of the Official Records of Maricopa County, Arizona;

Parcel 2, according to the plat for THE GARDENS, PARCEL 2, recorded in Book 572 of Maps, Page 10, and as Document No. 2001-0819957 of the Official Records of Maricopa County, Arizona;

Parcel 3, according to the plat for THE GARDENS, PARCEL 3, recorded in Book 570 of Maps, Page 45, and as Document No. 2001-0772048 of the Official Records of Maricopa County, Arizona;

Parcel 4, according to the plat for THE GARDENS, PARCEL 4, recorded in Book 562 of Maps, Page 20, and as Document No. 2001-0379256 of the Official Records of Maricopa County, Arizona;

Parcel 5 – See attached pages.

Parcel 6, according to the plat for THE GARDENS, PARCEL 6, recorded in Book 579 of Maps, Page 23, and as Document No. 2001-1145848 of the Official Records of Maricopa County, Arizona;

Parcel 7, according to the plat for THE GARDENS, PARCEL 7, recorded in Book 579 of Maps, Page 24, and as Document No. 2001-1145851 of the Official Records of Maricopa County, Arizona;

Unofficial Document

LEGAL DESCRIPTION FOR PARCEL 5

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 6 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST QUARTER OF SAID SECTION 24;

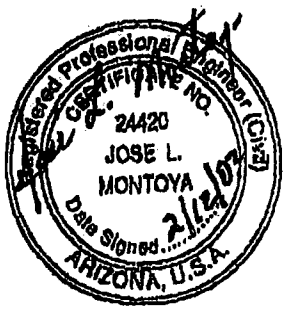
THENCE NORTH 00 DEGREES 35 MINUTES 16 SECONDS WEST A DISTANCE OF 2191.93 FEET ALONG THE WEST LINE OF SAID SECTION 24 TO A POINT ON THE SOUTH LINE OF THE ADOT RIGHT-OF-WAY FOR STATE ROUTE 202L (THE SAN TAN FREEWAY);

Unofficial Document

THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 89 DEGREES 17 MINUTES 06 SECONDS EAST A DISTANCE OF 4.72 FEET;

THENCE FURTHER ALONG SAID RIGHT-OF WAY LINE NORTH 88 DEGREES 43 MINUTES 27 SECONDS EAST A DISTANCE OF 60.29 FEET TO THE INTERSECTION POINT OF THE ADOT RIGHT-OF-WAY AND THE EAST RIGHT OF WAY LINE FOR SOUTH RECKER ROAD, WHICH INTERSECTION IS **THE TRUE POINT OF BEGINNING**;

THENCE CONTINUING ALONG THE ADOT RIGHT-OF-WAY LINE NORTH 88 DEGREES 43 MINUTES 27 SECONDS EAST A DISTANCE OF 389.82 FEET TO AN ANGLE POINT ON SAID RIGHT-OF WAY;



CARRENSAS

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE NORTH 87 DEGREES 42 MINUTES 24 SECONDS EAST A DISTANCE OF 1251.00 FEET TO AN ANGLE POINT ON SAID RIGHT OF WAY;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE NORTH 89 DEGREES 59 MINUTES 50 SECONDS EAST A DISTANCE OF 908.27 FEET TO THE INTERSECTION POINT OF THE ADOT RIGHT OF WAY AND THE MID-SECTION LINE OF SECTION 24;

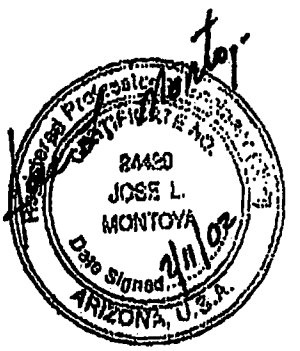
THENCE SOUTH 00 DEGREES 41 MINUTES 09 SECONDS EAST ALONG SAID MID-SECTION LINE A DISTANCE OF 656.32 FEET;

THENCE DEPARTING SAID MID-SECTION LINE SOUTH 89 DEGREES 29 MINUTES 15 SECONDS WEST A DISTANCE OF 566.25 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF GARDEN CIRCLE;

Unofficial Document

THENCE NORTHWESTERLY A DISTANCE OF 32.96 FEET ALONG SAID RIGHT-OF-WAY, WHICH RIGHT-OF-WAY LIES ON A NON-TANGENT CURVE, THE CENTER OF WHICH BEARS SOUTH 78 DEGREES 10 MINUTES 56 SECONDS WEST A DISTANCE OF 330.00 FEET;

THENCE NORTH 25 DEGREES 09 MINUTES 56 SECONDS EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 27.13 FEET;



THENCE NORTH 25 DEGREES 13 MINUTES 18 SECONDS WEST ALONG SAID RIGHT-OF WAY A DISTANCE OF 33.05 FEET;

THENCE NORTH 70 DEGREES 49 MINUTES 20 SECONDS WEST ALONG SAID RIGHT OF WAY A DISTANCE OF 26.40 FEET;

THENCE NORTHWESTERLY A DISTANCE OF 290.92 FEET ALONG SAID RIGHT-OF-WAY, WHICH RIGHT-OF-WAY LIES ON A NON-TANGENT CURVE, THE CENTER OF WHICH BEARS SOUTH 60 DEGREES 29 MINUTES 03 SECONDS WEST A DISTANCE OF 330.00 FEET;

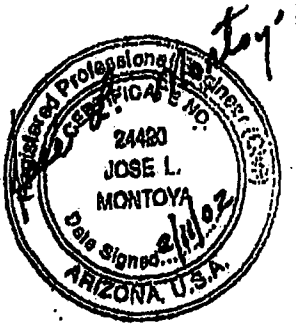
THENCE NORTH 40 DEGREES 21 MINUTES 36 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 25.53 FEET;

Unofficial Document

THENCE NORTH 80 DEGREES 15 MINUTES 47 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 33.55 FEET;

THENCE NORTH 44 DEGREES 14 MINUTES 20 SECONDS EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 28.25 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF GARDEN CIRCLE;

THENCE SOUTH 89 DEGREES 29 MINUTES 15 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 757.70 FEET; TO A POINT ON THE WEST RIGHT-OF-WAY OF GARDEN CIRCLE;



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THENCE NORTH 45 DEGREES 23 MINUTES 02 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 28.31 FEET;

THENCE SOUTH 80 DEGREES 16 MINUTES 54 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 33.45 FEET;

THENCE SOUTH 41 DEGREES 37 MINUTES 21 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 26.83 FEET;

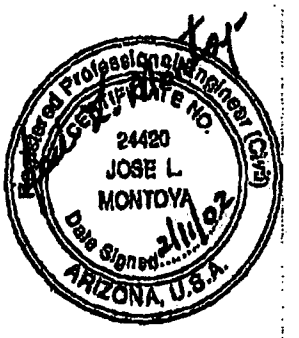
THENCE SOUTHWESTERLY A DISTANCE OF 460.84 FEET ALONG SAID RIGHT-OF WAY, WHICH RIGHT OF WAY LIES ON A NON-TANGENT CURVE, THE CENTER OF WHICH BEARS 10 DEGREES 40 MINUTES 45 SECONDS EAST A DISTANCE OF 330.00 FEET;

Unofficial Document

THENCE SOUTH 00 DEGREES 41 MINUTES 34 SECONDS EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 60.36 FEET;

THENCE SOUTH 44 DEGREES 23 MINUTES 50 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 28.33 FEET;

THENCE SOUTH 00 DEGREES 54 MINUTES 41 SECONDS EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 33.00 FEET;



GARDENS006

THENCE SOUTH 45 DEGREES 36 MINUTES 10 SECONDS EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 28.24 FEET;

THENCE SOUTH 00 DEGREES 41 MINUTES 34 SECONDS EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 145.10 FEET;

THENCE SOUTH 44 DEGREES 21 MINUTES 35 SECONDS WEST A DISTANCE OF 28.26 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF EAST ORCHID LANE;

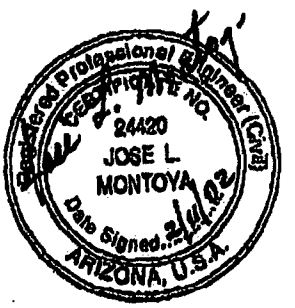
THENCE SOUTH 89 DEGREES 24 MINUTES 44 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 500.55 FEET;

THENCE NORTH 45 DEGREES 35 MINUTES 16 SECONDS WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 42.43 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH RECKER ROAD;

THENCE NORTH 00 DEGREES 35 MINUTES 16 SECONDS WEST A DISTANCE OF 955.24 FEET ALONG THE EAST RIGHT-OF-WAY LINE OF SOUTH RECKER ROAD TO THE TRUE POINT OF BEGINNING;

COMPRISING AN AREA OF 34.6674 ACRES MORE OR LESS.

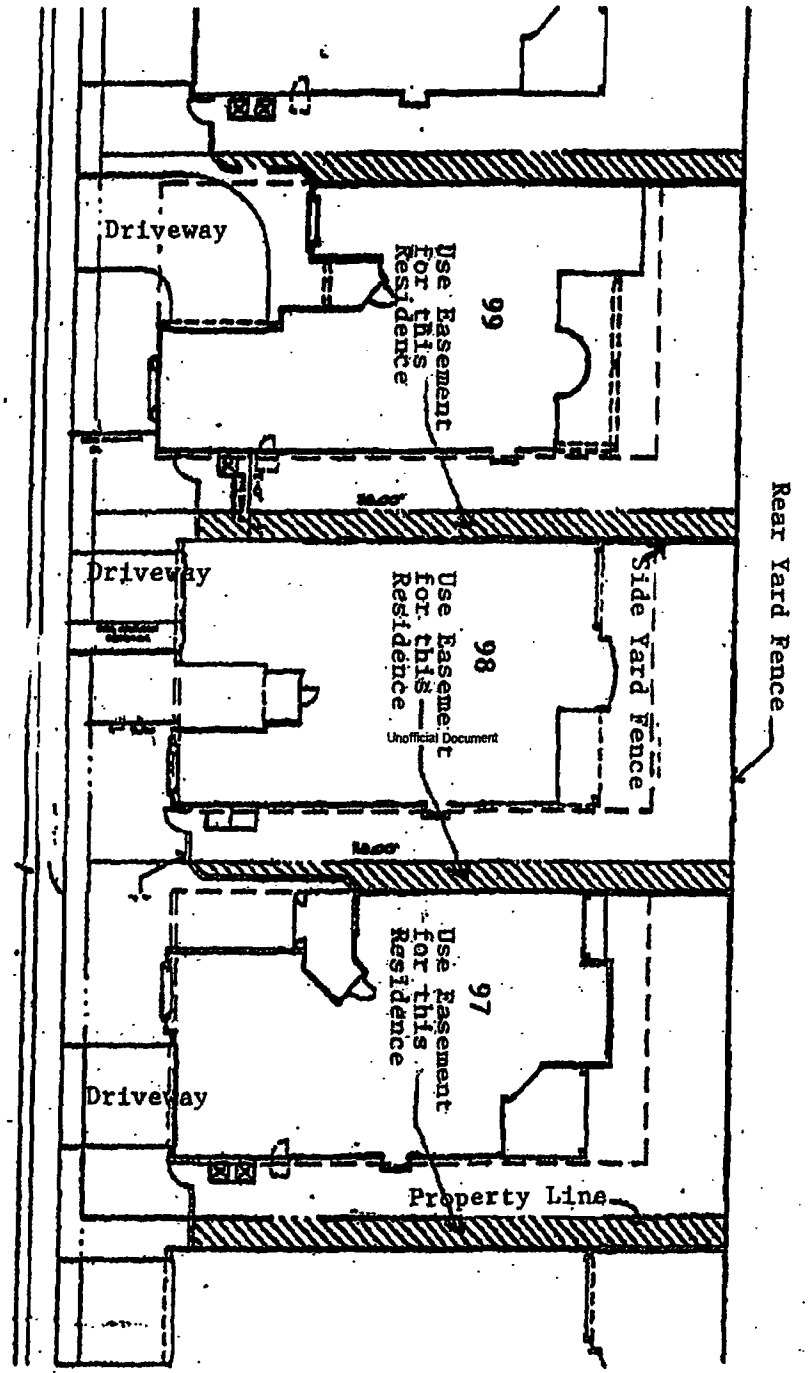
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GARDENS006

20020193711

EXHIBIT "B"



Unofficial Document

TYPICAL LOT LAYOUT / EASEMENT PLAN

EXHIBIT 20

BYLAWS

OF

GARDENS/GILBERT

COMMUNITY ASSOCIATION

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GARDENS006

ARTICLE I
GENERAL PROVISIONS

1 1. **Principal Office** The principal office of this Association shall be located at the place designated in the Articles of Incorporation of Gardens/Gilbert Community Association (the "Articles") or at such other place as the Association may designate from time to time in accordance with the Arizona statutes governing nonprofit corporations, but meetings of members and directors may be held at such other place within the State of Arizona as may be designated by the Board of Directors

1 2 **Defined Terms** Capitalized terms used in these Bylaws without definition shall have the meanings specified for such terms in the Declaration of Covenants, Conditions, Restrictions and Easements for The Gardens recorded as Document No _____ in the Official Records of Maricopa County, Arizona, as such Declaration may be amended from time to time (the "Declaration")

1 3. **Conflicting Provisions** In the case of any conflict between the Articles and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control

1 4 **Corporate Seal** The Association may have a seal in a form approved by the Board

1 5 **Designation of Fiscal Year** The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association

1 6 **Financial Records** An annual report consisting of at least the following shall be made available to all Members within sixty (60) days after the close of each fiscal year

(1) A balance sheet,

(ii) An operating (income) statement; and

(iii) A statement of changes in financial position for the fiscal year

The annual financial report shall be on an unaudited, reviewed or compiled basis, as the Board determines, by an independent public accountant, provided, however, that an audited financial statement shall be obtained by the Board at least once every three (3) years

1 7 **Amendment**

1 7 1 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of the Members having more than fifty percent (50%) of the votes entitled to be cast by the Members present in person or by proxy

1 7 2 As long as a Declarant owns any interest in a Lot, the Declarant, and thereafter, the Board, without a vote of the Members and without the consent of any First Mortgagee, may amend these Bylaws in order to conform these Bylaws to the requirements or

guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration ("FHA"), the Veterans Administration ("VA") or any federal, state or local governmental agency whose approval of the Project, the Plat or the Project Documents is required by law or requested by the Declarant or the Board

1 7 3 So long as there is a Class B membership in the Association, and provided the Declaration and these Bylaws have been initially approved by the FHA or VA in connection with any loan programs made available by FHA or VA with respect to the Project, the FHA and VA, as applicable, shall have the right to veto amendments to these Bylaws

1 7 4 So long as a Declarant owns any interest in a Lot, any amendment to these Bylaws must be approved in writing by each such Declarant.

ARTICLE 2
MEETINGS OF MEMBERS

2 1 **Annual Meeting** An annual meeting of the Members of the Association shall be held at least once each year at such date, time and place as is determined by the Board

2 2 **Special Meetings** Special meetings of the Members may be called at any time by the president or by the Board or upon written demand signed by Members having at least one-fourth (1/4) of the total authorized votes in the Association The close of business on the thirtieth (30th) date before delivery of the demand or demands for a special meeting shall be the record date for the purpose of determining whether the demand for the special meeting has been signed by Members having at least one-fourth (1/4) of the total authorized votes in the Association

2 3 **Notice of Meetings** Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting When a meeting is adjourned to another date, time or place, a notice of the new date, time or place is not required if the new date, time or place is announced at the meeting before adjournment At the adjourned meeting, the Association may transact any business which might have been transacted at the original meeting If a new record date for the adjourned meeting is or must be fixed under Subsection 2 6 3 below, the Association shall give notice of the adjourned meeting pursuant to this Section to persons who are Members as of the new record date A Member's attendance at a meeting waives objection to the lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting and transacting business in the meeting In addition, a Member's attendance at a meeting waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter at the time it is presented

2 4 **Quorum** Except as otherwise provided in the Articles, the Declaration or these Bylaws, the presence in person or by proxy of Members entitled to cast one-tenth (1/10th) of the total authorized votes in the Association shall constitute a quorum at all meetings of the Members If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time until a quorum shall be present.

2 5 Proxies At all meetings of the Members a vote may be cast in person or by proxy A Member may appoint a proxy to vote or otherwise act for the Member by signing an appointment form, either personally or by the Member's attorney-in-fact. A proxy is valid for eleven months unless a shorter period is expressly provided in the appointment form An appointment of a proxy is effective on receipt by the Secretary or other officer or agent authorized to tabulate votes An appointment of a proxy is irrevocable unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointment of a proxy may be revoked by the person who appoints a proxy by either (1) attending any meeting and voting in person or (2) signing and delivering to the Secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form The death or incapacity of the member who appoints a proxy shall not affect the right of the Association to accept the proxy's authority unless the Secretary or other officer or agent authorized to tabulate votes receives written notice of the death or incapacity before the proxy exercises authority under the appointment

2 6 Record Date

2 6 1 For any meeting of the Members, the Board shall fix a date as the record date for determining the Members entitled to notice of the meeting If the Board fails to fix a record date for any meeting of the Members, the record date for determining the Members entitled to notice of the meeting shall be the business day before the day on which the notice of the meeting is given The Board shall also fix a date as the record date for determining the Members entitled to vote at a meeting of the Members If the Board fails to fix such a record date, the Members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting

2 6 2 A determination of Members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting, unless the Board fixes a new date for determining the right to notice or the right to vote The Board shall fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date that is more than seventy (70) days after the record date for determining Members entitled to notice of the original meeting

2 6 3 The Board shall fix a date as the record date for the purpose of determining the Members entitled to exercise any rights in respect of any other lawful action of the Members If a record date is not fixed by the Board, Members at the close of business on the day on which the Board adopts the resolution relating to that record date, or the sixtieth (60th) day before the date of other action, whichever is later, are entitled to exercise those rights

2 6 4 The record date fixed by the Board under this Section shall not be more than seventy (70) days before the meeting or action requiring a determination of Members

2 7 Organization and Conduct of Meetings All Members attending a meeting of the Members shall register with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting, and all proxies must be filed with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting After the meeting is called to order by the chair of the meeting, no further proxies or changes, substitutions or revocation of proxies shall be accepted All meetings of the Members will be called to order and chaired by the President of the Association, or if there is no President or if the President is absent or so requests, then by the Vice President If both the President and Vice President are not present at the meeting, any other officer of the

Association or such member of the Association as is appointed by the Board may call the meeting to order and chair the meeting The chair of the meeting may appoint any person (whether or not a Member of the Association) to act as Recording Secretary The chair of the meeting shall have the authority to determine the order of business to be conducted at the meeting and to establish reasonable rules for expediting the business of the meeting

2 8 **Action by Written Ballot** Any action that the Association may take at any annual, regular or special meeting of the Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action All solicitations for votes by written ballot shall (1) indicate the number of responses needed to meet the quorum requirements, (2) state the percentage of approvals necessary to approve each matter other than election of directors, and (3) specify the time by which a ballot must be delivered to the Association in order to be counted, which time shall not be less than three (3) days after the date that the Association delivers the ballot Once a written ballot has been received by the Association, the ballot may not be revoked Approval by written ballot pursuant to this Section is valid only if both the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes which would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot

2 9 **Action by Written Consent**

2 9 1 The Members may approve any action required or permitted by law that requires the Members' approval without a meeting of the Members if the action is approved by Members holding at least a majority of the voting power in the Association, unless the Declaration, Articles, these Bylaws or applicable law require a different amount of voting power The action shall be evidenced by one or more written consents describing the action taken, signed by those Members representing at least the requisite amount of the voting power, and delivered to the Association for inclusion in the minutes or filing with the corporate records of the Association

2 9 2 If not otherwise fixed by the Board pursuant to Section 2 6 above, the record date for determining Members entitled to take action without a meeting is the date the first Member signs the consent to the action A consent signed under this Section has the effect of a meeting vote and may be described as such in any document. Written notice of Member approval pursuant to this Section shall be given to all Members who have not signed the written consent Unless otherwise specified in the consent or consents, the action is effective on the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of the voting power Any Member may revoke the Member's consent by delivering a signed revocation of the consent to the President or Secretary before the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of the voting power

2 10 **Voting Requirements** Unless otherwise provided in the Project Documents, if a quorum is present at a meeting of the Members, the affirmative vote of a majority of the votes represented and voting is the act of the Members

ARTICLE 3
BOARD OF DIRECTORS

3 1 **Number** The affairs of the Association shall be managed by a board of directors consisting of a minimum of three (3) and a maximum of nine (9) directors, provided, however, as long as there is a Class B membership in the Association, the number of directors shall be between one (1) and three (3), as determined in the sole discretion of the Class B Member(s) So long as there is a Class B membership in the Association, the directors need not be Members of the Association After the termination of the Class B membership, the number of directors shall be increased to five (5) and thereafter all directors must be Members of the Association The Board may increase or decrease the number of directors on the Board but the number of directors must always be an odd number and shall, following the termination of the Class B membership, be not less than five (5) or more than nine (9)

3 2 **Appointment and Election** Until the termination of the Class B membership in the Association, the Declarant shall have the right to appoint and remove the members of the Board After the termination of the Class B membership, the directors shall be elected by the Members at the annual meeting of the members

3 3 **Term of Office** Directors appointed by the Declarant shall hold office until their successors are elected and qualify All directors elected by the Members shall be elected for a term of one (1) year Despite the expiration of a director's term, a director shall continue to hold office until the directors' successor is elected, designated or appointed and qualified, until the director's resignation or removal or until there is a decrease in the number of directors

3 4 **Resignation of Directors** A director may resign at any time by delivering written notice to the Board, its presiding officer or the Association A resignation is effective when the notice is delivered unless the notice specifies a later effective date or event If a resignation is made effective at a later date, the Board may fill the pending vacancy before the effective date if the Board provides that the successor does not take office until the effective date

3 5 **Removal of Directors** Except for directors appointed by the Declarant, any one or more of the members of the Board may be removed from the Board with or without cause by Members having more than fifty percent (50%) of the votes entitled to be cast by the Members present in person or by proxy at a meeting of the Members called for such purpose, and a successor may then and there be elected to fill the vacancy thereby created

3 6 **Compensation** No director shall receive compensation for any service he may render to the Association, unless such compensation is approved by Members having more than fifty percent (50%) of the votes entitled to be cast by the Members present in person or by proxy at a meeting of the Members However, any director may be reimbursed for his actual expenses incurred in the performance of his duties

3 7 **Action Taken Without a Meeting** The Board shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written consent of all the directors Any such written consent shall be filed with the minutes of the proceedings of the Board

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3 8 Vacancies. Except for vacancies on the Board caused by the removal of a director in accordance with the provisions of Section 3 5 of these Bylaws, any vacancy occurring in the Board may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum or by a sole remaining director, and any director so chosen shall hold office until the next election of the directors Any newly created directorship shall be deemed a vacancy When one or more directors resigns from the Board, effective at a future time, a majority of the directors then in office, including those who have so resigned, may fill such vacancy, the vote on the vacancy to take effect when such resignation becomes effective If by reason of death, resignation or otherwise, the Association has no directors in office, any officer or Member may call a special meeting of the Members for the purpose of electing the Board

3 9 Meetings

3 9 1 If the time and place of a meeting of the Board is fixed by the Board, the meeting is a regular meeting All other meetings of the Board are special meetings Regular meetings of the Board may be held with or without notice to the directors of the date, time, place or purpose of the meeting

3 9 2 Special meetings of the Board may be called by the President on two (2) business days notice to each director, given in writing, by hand delivery, mail or telegraph, which notice shall state the time, place and purpose of the meeting Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors

3 9 3 A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting or promptly on the director's arrival at the meeting objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting

3 9 4 A director may participate in a regular or special meeting of the Board through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting, and a director participating in a meeting by such means is deemed to be present in person at the meeting

3 9 5 Notice of meetings of the Board shall be given to the Members of the Association within such time and in such manner as is required by law

3 10 Quorum and Voting A majority of the prescribed number of directors shall constitute a quorum for the transaction of business If a quorum is present when a meeting is convened, the quorum shall be deemed to exist until the meeting is adjourned, notwithstanding the departure of one or more directors If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the Board unless the Articles or Bylaws require the vote of a greater number of directors A director who is present at a meeting of the Board when corporate action is taken is deemed to have assented to the action taken unless either (1) the director objects at the beginning of the meeting or promptly on the director's arrival to holding it or transacting business at the meeting, (2) the director's dissent or abstention from the action taken is entered in the minutes of the meeting, or (3) the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the Association before 5 00 P M on the next business day after the meeting The right of dissent or abstention is not available to a director who votes in favor of the action taken A director may

vote in person or by proxy A director may appoint a proxy to vote or otherwise act for the director by signing an appointment form, either personally or by the director's attorney-in-fact The appointment does not relieve the director of liability for acts or omissions imposed by law on directors An appointment of a proxy is effective when received by the Secretary An appointment is valid for one (1) month unless a different period is expressly provided in the appointment form An appointment of a proxy is revocable by the director The death or incapacity of a director appointing a proxy shall not affect the right of the Association to accept the proxy's authority unless written notice of death or incapacity is received by the Secretary before the proxy exercises its authority under the appointment Subject to any express limitation on the proxy's authority appearing on the face of the appointment form, the Association is entitled to accept the proxy's vote or other action as the vote of the director making the appointment

3 11 Powers and Duties The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may exercise all corporate powers of the Association, subject to any limitation set forth in the Project Documents In addition to the duties imposed by these Bylaws or by any resolution of the Members that may hereafter be adopted, the Board shall have the following powers and duties

3 11 1 Open bank accounts on behalf of the Association and designate the signatories thereon,

3 11 2 Make, or contract for the making of repairs, additions or improvements to or alterations of the Common Areas and any other property the Association is required to maintain and repair pursuant to the Project Documents (the "Areas of Association Responsibility") in accordance with the Project Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings,

3 11 3 In the exercise of its discretion, enforce by legal means the provisions of the Project Documents,

3 11 4 Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair, replacement of the Area of Association Responsibility and provide services for the Members and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties,

3 11 5 Provide for the operation, care, upkeep and maintenance of all of the Areas of Association Responsibility and borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance for the Areas of Association Responsibility,

3 11 6 Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year,

3 11 7 Adopt and publish rules and regulations governing the use of the Areas of Association Responsibility and facilities and the personal conduct of the Members and their family members, guests, lessees and invitees thereon and establish penalties for the infraction thereof,

3 11 8 Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Project Documents,

3 11 9 Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board,

3 11 10 Employ, hire and dismiss such employees as they deem necessary and to prescribe their duties and their compensation,

3 11 11 Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by any Member entitled to vote,

3 11 12 Supervise all officers, agents and employees of the Association and see that their duties are properly performed,

3 11 13 Levy, collect and enforce the payment of Assessments in accordance with the provisions of the Declaration,

3 11 14 Issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any Assessment has been paid A reasonable charge may be made by the Board for the issuance of these certificates If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment,

3 11 15 Procure and maintain adequate property, liability and other insurance as required by the Declaration,

3 11 16 Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate, and

3 11 17 Cause the Common Areas and the Areas of Association Responsibility to be maintained, as more thoroughly set forth in the Declaration

3.12 **Managing Agent** The Board may employ for the Association and the Project a "Managing Agent" at a compensation established by the Board The Managing Agent shall perform such duties and services as the Board shall authorize, including, but not limited to, all of the duties listed in the Project Documents except for such duties and services that under the Project Documents may not be delegated to the Managing Agent The Board may delegate to the Managing Agent all of the powers granted to the Board or the officers of the Association by the Project Documents other than the power (i) to adopt the annual budget, any amendment thereto or to levy Assessments, (ii) to adopt, repeal or amend Rules and Regulations, (iii) to designate signatories on Association bank accounts, (iv) to borrow money on behalf of the Association, and (v) to acquire real property So long as a Declarant owns any interest in a Lot, any change in the Managing Agent must be approved in writing by such Declarant

ARTICLE 4
OFFICERS AND THEIR DUTIES

4 1 **Enumeration of Officers** The principal officers of the Association shall be the president, the vice president, the secretary, and the treasurer all of whom shall be elected by the Board The president must be a member of the Board Any other officers may, but need not, be members of the Board

4 2 **Election of Officers** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members

4 3 **Term** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve

4 4 **Special Appointments** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine

4 5 **Resignation and Removal** Any officer may be removed from office with or without cause by the Board Any officer may resign at any time by giving written notice to the Association A resignation is effective when the notice is delivered unless the notice specifies a later date or event. The acceptance of a resignation shall not be necessary to make it effective If a resignation is made effective at a later date or event and the Board accepts the later effective date, the Board may fill the pending vacancy before the effective date if the Board provides that the successor shall not take office until the effective date

4 6 **Vacancies** A vacancy in any office may be filled by appointment by the Board The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces

4 7 **Multiple Offices** The same individual may simultaneously hold more than one office in the Association

4 8 **Powers and Duties** To the extent such powers and duties are not assigned or delegated to a Managing Agent pursuant to Section 3 12 of these Bylaws, the powers and duties of the officers shall be as follows

4 8 1 **President** The president shall be the chief executive officer of the Association, shall preside at all meetings of the Board or the Members, shall see that orders and resolutions of the Board are carried into effect and have general and active management of the business of the Association,

4 8 2 **Vice-President** The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board,

4 8 3 **Secretary** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep the corporate seal of the Association and affix it on all papers requiring said seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board,

4 8 4 **Treasurer** The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds for appropriate Association purposes as set forth in the Project Documents, keep proper books of account, and shall prepare

an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy thereof to each of the Members, and, in general, perform all the duties incident to the office of treasurer

ARTICLE 5
COMMITTEES OF THE BOARD

5 1 Appointment of Committees The Board may create one or more committees and appoint members of the Board to serve on them Each committee shall have one or more members, and each member of a committee shall serve at the pleasure of the Board The creation of a committee and appointment of members of the Board to the committee must be approved by the greater of (1) a majority of all the directors in office when the action is taken, or (2) the number of directors required by Section 3 10 above to take action

5 2 Proceedings of Committees The provisions of these Bylaws governing meetings, action without meetings and notice, waiver of notice, quorum and voting requirements of the Board shall also apply to committees and their members

5 3 Authority of Committees Each committee of the Board may exercise the authority of the Board to the extent specified by the Board, except that a committee shall not take any of the following actions 1) authorize distributions, (2) approve or recommend to the Members any action that requires the Members' approval under the Project Documents or by law, (3) fill vacancies on the Board or on any of its committees, (4) adopt, amend or repeal these Bylaws, and (5) fix the compensation of directors for serving on the Board or any committee of the Board

5 4 Alternate Members The Board may designate one or more directors alternate members of any committee who may replace any absent member at any meeting of the committee

CERTIFICATION

I hereby certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Gardens/Gilbert Community Association on the 26th day of November, 2001

Shawn Porter,
Secretary

EXHIBIT 21

e-CLAS Banner Page

Environment: PRODUCTION

Policy Number: EMO 069 81 50

Effective Date: 10-19-2023

Named Insured: GARDENS GILBERT COMMUNITY ASSOCIATION

GARDENS GILBERT COMMUNITY
ASSOCIATION
4135 S POWER RD STE 133
MESA AZ 85212-3627

Thank you for placing this coverage with The Cincinnati Insurance Companies!



The Cincinnati Insurance Company
The Cincinnati Casualty Company
The Cincinnati Indemnity Company

ABOUT YOUR CINCINNATI POLICY

Policy Number: EMO 069 81 50

Effective Date: 10-19-2023

Named Insured:
GARDENS GILBERT COMMUNITY ASSOCIATION

Our Cincinnati Customer Care Center provides service on behalf of your agency. Your requested transaction is attached. If you have questions regarding this transaction, please contact us. For contact information, please refer to the My Policies page.

"The Cincinnati Insurance Companies" and "Cincinnati" refer to one or more companies of the insurer group providing property and casualty coverages through ☒ The Cincinnati Insurance Company, ☐ The Cincinnati Casualty Company, or ☐ The Cincinnati Indemnity Company. Each insurer has sole financial responsibility for its own products. Not all subsidiaries operate in all states.

The Cincinnati Insurance Companies

Management Liability

TOOLS TO HELP YOU MANAGE RISK



When you purchase Cincinnati's exceptional Pillar™ management liability insurance to protect your organization, you receive access to risk management tools at no additional cost to help you with the complex situations covered by your policy.

Depending on the coverage options you purchase, you may also gain access to services provided by risk management specialists who can answer questions related to managing your community association, employment practices issues, cyber liability exposures or workplace violence. Most of these services are also available at no additional cost.

☐ **Nonprofit Risk Management Portal:** Are you a nonprofit organization looking for expert risk management guidance? Cincinnati's policyholders can register with Nonprofit Risk Management Center, a leader in the risk management space, to help you identify and manage risks that threaten your missions, while empowering you to take bold, mission-advancing steps. Comprehensive risk resources provide practical knowledge on the topics that matter to you, while self assessments lead you – step by step – to building a custom risk management plan. Please visit *cinfin.com/nonprofit-risk-resources* to register for NRMC services; have your Cincinnati Insurance policy number ready.

☒ **Community Association Helpline:** As a Pillar policyholder, you can call a toll-free helpline, 844-458-9556, for assistance reducing or avoiding a potential wrongful acts loss related to managing your community association. Please have your Pillar Directors & Officers policy number ready before you call. When you place your call, leave a message including your name, complete contact information, policy number and your question or concern. A helpline lawyer will call you back, usually within one business day. Please be advised that each helpline call is limited to one hour. There is no additional charge for using this policyholder helpline.

☒ **Employment Practices Helpline:** Do you have questions about how to handle employment situations? Pillar policyholders whose coverage includes Cincinnati's employment practices liability insurance may call our toll-free Employment Connection helpline, 888-811-3427, for guidance from an attorney prior to making employment-related decisions. We offer eligible policyholders an unlimited number of calls seeking advice on employment policies and procedures.

For information, coverage availability in your state, quotes or policy service, please contact your local independent agent recommending coverage.

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☒ **Cyber Risk Management Portal:** Cincinnati's cyber policyholders may access eRiskHub, an online portal that provides news, information and tools to help mitigate a breach or hacking event, virus infection or other cyberattack. On eRiskHub, you will find information about privacy laws, compliance and breach response guides including compliance resources, notification letter examples, and credit bureau and government agency notifications. Other data risk management expertise may be engaged to help diagnose and repair virus infections and other common computer problems. Some services offered may extend beyond what the policy covers and include an additional charge. Please visit *https://eriskhub.com/cic* to set up an account using the access code provided with your policy or available from your agent to begin exploring this valuable resource.

☐ **Workplace Violence Hotline:** After a covered workplace violence event, Pillar policyholders who have added Cincinnati's optional workplace violence expense coverage to their EPLI policy can receive help to create a response and begin the recovery process. Simply call the toll-free, 24-hour hotline, 877-841-1082. It's monitored by Black Swan Solutions, a business unit of Empathia, Inc., which is an industry-leading crisis support organization. Coverage also reimburses recovery expenses for security, public relations, counselors and lost salaries, wages and business income. While policyholders are not obligated to use Black Swan Solutions, this resource is available if you need them.

☐ **Kidnap, Ransom and Extortion:** Success attracts respect, recognition and rewards, yet may leave you vulnerable to kidnapping and extortion attempts. This policy option pays for the vital services of Control Risks Group, a kidnap extortion and crisis management consulting firm. Experts help manage all aspects of the situation, work toward the safe return of the victim and negotiate ransom requests. They also try to identify those responsible, assess the circumstances and search for a motive.

Selecting the right company

With Cincinnati's Pillar management liability coverage, know that you have an exceptional insurance program from a company offering:

- A management team specifically dedicated to keeping your program on the leading edge
- Superior claims service provided by Cincinnati professionals
- High financial strength rating from A.M. Best Co., reflecting our ability to pay claims and keep our promises.
- For qualifying accounts, multi-year policy terms are available in most states for many coverages, saving you the added time and expense of annual renewals

Your agent recommending Cincinnati can provide more details, answer questions and add the coverage you need.

Thank you for trusting your agent and Cincinnati to protect your business.

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Everything Insurance Should Be®

Our loss control service is advisory only. We assume no responsibility for management or control of customer loss control activities or for implementation of recommended corrective measures. These materials were gathered from trade services and public information. We have not tried to identify all exposures. We do not warrant that this information is consistent with the underwriting guidelines of The Cincinnati Insurance Company and its subsidiaries or with any federal, state or local law, regulation or ordinance.

This is not a policy. For a complete statement of the coverages and exclusions, please see the policy contract. "The Cincinnati Insurance Companies", "Cincinnati Insurance" and "Cincinnati" refer to member companies of the insurer group providing property and casualty coverages through The Cincinnati Insurance Company or one of its wholly owned subsidiaries – The Cincinnati Indemnity Company or The Cincinnati Casualty Company. Each insurer has sole financial responsibility for its own products. Not all subsidiaries operate in all states. Do not reproduce or post online, in whole or in part, without written permission. Best's ratings are under continuous review and subject to change and/or affirmation. To confirm the current rating, please visit *www.ambest.com*. © 2020 The Cincinnati Insurance Company. 6200 S. Gilmore Road, Fairfield, OH 45014-5141.

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NOTICE TO POLICYHOLDERS
DIRECT BILL ACCOUNT CREDIT PROCEDURE

This is a notice of how an account credit will be applied to your policy or to all of the policies being billed as single account.

Account Credits

A. If your account is comprised of **a single policy** and an endorsement or premium audit results in a credit (return premium), the credit is applied to that policy. If your account does not have a future installment due at the time the endorsement or audit is processed, the credit is refunded to the payor listed for your account. If you do not wish for credits to be automatically applied to future unpaid installments, please contact us to request a refund. Please note that the amount of the refund may vary based upon the date you contact us and your billing schedule.

B. If your account is comprised of **more than one policy** and an endorsement or premium audit results in a credit (return premium), the credit is applied in the following manner:

- Payments previously applied to your account are deferred.
- The credit that results from the endorsement or audit is applied to the policy generating the credit.
- The payments that were deferred are then reapplied to the account in order to satisfy the amount due.
- Any excess payment that results from the credit is applied proportionately to your policies with a future payment or installment due.
- If you do not wish for credits to be automatically applied to future unpaid installments, please contact us to request a refund. Please note that the amount of the refund may vary based upon the date you contact us and your billing schedule.
- If your account does not have a future installment or payment due at the time the endorsement or audit is processed, the credit is refunded to the payor listed for your account.

(Does not apply to audit return premium for payors located in New York; Does not apply to premiums due more than 30 days from the date of processing for payors located in New Hampshire. These credits are automatically refunded to the payor)

To request a refund, contact us at:

Mailing Address	Toll free phone number	Electronic mail
The Cincinnati Insurance Company PO Box 14529 Cincinnati, OH 45250-0529	877-942-2455	CinciBill@cinfin.com

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DISCLOSURE OF DIRECT BILL FEES AND CHARGES

NO COVERAGE IS PROVIDED BY THIS DISCLOSURE, nor can it be construed to replace any provision of your policy. YOU SHOULD READ YOUR POLICY AND REVIEW YOUR DECLARATIONS PAGE CAREFULLY for complete information on the coverages provided.

Your insurance premium is being paid directly to us rather than to your insurance agency. We appreciate your prompt payment of the premium. Please note that these fees apply only in the event your payment is late, is returned to us for insufficient funds, or if your policy was previously canceled for nonpayment of premium and has been reinstated at either your or your agents request. We are not required to reinstate a policy once cancellation for nonpayment of premium has become effective. The decision to reinstate coverage is solely at the discretion of the company.

Not all fees are applicable in all states. The types of fees are listed below. Following the description of each fee, we list the states where the fee applies and the amount of the fee. Fees are not levied in KY, MD, MT and NC.

Non-Sufficient Funds (NSF) Charge: The first time a premium payment is returned due to Non-Sufficient Funds (NSF), the premium due is the installment amount. For each succeeding return of payment while continuously insured with The Cincinnati Insurance Companies, a charge is added to your next account statement. The amount of the charge is determined by the fees filed with and approved by the state where the payor of your account is located.

$10 AK, FL, NJ, RI, and SC;

$15 MA;

$20 NY; and

$25 AL, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, NE, NV, NH, NM, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WV and WY.

Reinstatement Charge: The first time your account is reinstated for nonpayment of premium, the premium due is the installment amount. For each succeeding reinstatement due to nonpayment of premium while continuously insured with The Cincinnati Insurance Companies, a charge is added to your next account statement. The amount of the charge is determined by the fees filed with and approved by the state where the payor of your account is located.

$10 AK, RI, and SC;

$15 MA;

$20 NY; and

$25 AL, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, NE, NV, NH, NM, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA and WY.

Late Charge: A charge is added to your next account statement each time your payment is received and processed after the due date as shown on the account statement. This fee will not apply to Electronic Funds Transfer (EFT). The amount of the charge is determined by the fees filed with and approved by the state where the payor of your account is located.

$10 AK, FL, RI, and SC;

$15 MA; and

$25 AL, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, LA, ME, MI, MN, MS, MO, NE, NV, NH, NM, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI and WY.

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THE CINCINNATI INSURANCE COMPANIES

The Cincinnati Insurance Company
A Stock Insurance Company

Headquarters: 6200 S. Gilmore Road, Fairfield, OH 45014-5141
Mailing address: P.O. Box 145496, Cincinnati, OH 45250-5496
www.cinfin.com ■ 513-870-2000

PILLAR
COMMON POLICY DECLARATIONS

Billing Method: **DIRECT BILL**

Policy Number: **EMO 069 81 50**

Named Insured: **GARDENS GILBERT COMMUNITY ASSOCIATION**

Mailing Address: **4135 S POWER RD STE 133**
MESA, AZ 85212-3627

Principal Address: **4135 S POWER RD STE 133**
MESA, AZ 85212-3627

Previous Policy Number: **NEW**

Policy Period: (At 12:01 AM standard time at your principal address shown above.)

FROM: **10-19-2023** TO: **05-10-2026**

Agency: **BREINHOLT ANDERSON INSURANCE CONSULTANTS, LLC 02-117**
City, State: **MESA, AZ**
PRODUCER: NIKKI STEELE

Shared Annual Aggregate Limit of Liability: **N/A**

Applicable to all **claims** under the following liability coverage parts:

In return for the payment of the premium and subject to all the terms and conditions of this policy, we agree with you to provide the insurance as stated in this policy.

Forms applicable to all coverage parts:

IA4426	**03/13**	**CINCINNATI CUSTOMER CARE CENTER**
ML400A	**01/16**	**SUMMARY OF PREMIUMS - TERM**
ML101	**01/20**	**GENERAL PROVISIONS**
ML338	**01/16**	**TERRORISM EXCLUSION**
ML4117AZ	**04/21**	**ARIZONA CHANGES - CANCELLATION AND NONRENEWAL**

IA4427	02/13	NOTICE OF LOSS CONTROL SERVICES
IA4486	03/17	NOTICE OF LOSS CONTROL SERVICES- COMMUNITY ASSOCIATIONS
IA4513	06/20	CERTIFIED ACTS AND OTHER ACTS OF TERRORISM EXCLUSION ADVISORY NOTICE TO POLICYHOLDERS
IA4521	03/20	NOTICE OF PRIVACY PRACTICES
IP446	08/01	NOTICE TO POLICYHOLDERS
ML4000	04/21	NOTICE OF LOSS CONTROL SERVICES
IA4338	05/11	SIGNATURE ENDORSEMENT

Coverage part declarations:

ML506 01/16	COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE PART DECLARATIONS
ML512 01/16	EMPLOYMENT PRACTICES LIABILITY COVERAGE PART DECLARATIONS
ML502 01/18	CINCINNATI DATA DEFENDER™ COVERAGE PART DECLARATIONS
ML503 01/18	CINCINNATI NETWORK DEFENDER™ COVERAGE PART DECLARATIONS
ML516 01/18	CRIME COVERAGE PART DECLARATIONS

Policy Number: EMO 069 81 50	Effective Date: 10-19-2023

SUMMARY OF PREMIUMS CHARGED

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM CHARGE IS INDICATED

	Short Term 10-19-2023 - 05-10-2024	Annuals
COMMUNITY ASSOCIATIONS DIRECTORS & OFFICERS LIABILITY	$ 1453	$ 2,614
EMPLOYMENT PRACTICES LIABILITY	$ 139	$ 250
CRIME COVERAGE	$ 422	$ 757
DATA DEFENDER COVERAGE PART	$ 124	$ 223
NETWORK DEFENDER COVERAGE PART	$ 161	$ 290
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
	$	$
Installment Charge	$	$
Total	$ 2,299	$ 4,134

Payment Plan	First Installment	Remaining Installments
ANNUAL	$ *	$ *

SEE BILLING STATEMENT MAILED SEPARATELY

ALL OTHER TERMS AND CONDITIONS REMAINS UNCHANGED

GARDENS008

GENERAL PROVISIONS APPLICABLE TO ALL LIABILITY COVERAGE PARTS

These General Provisions apply only to those Coverage Parts which include a liability coverage, which shall include all Coverage Parts other than Crime Coverage. Furthermore, any reference to the "policy" in these General Provisions refers to all Coverage Parts other than Crime Coverage.

Throughout this policy, the words "we", "us" and "our" refer to the Company providing this insurance.

In consideration of the payment of the premium, in reliance on all statements in the **application** and all other information provided to us and subject to all the provisions of this policy, including the Declarations, we and the **insureds** agree as set forth below.

SECTION I - DEFINITIONS

Where set forth in bold type in this policy, whether in singular or in plural, the following terms shall have the meanings indicated.

A. Application means:

1. The Application Form for this policy;
2. Any materials submitted with the Application Form which shall be maintained on file with us and shall be deemed to be attached hereto as if physically attached; and
3. Any warranty or representation provided to us within the last three years in connection with any policy of which this policy is a renewal or replacement.

B. Claim means:

1. With respect to the Cincinnati Data Defender™ Coverage Part, the Cincinnati Network Defender™ Coverage Part or the Cincinnati Cyber Defense™ Coverage Part, that meaning which is set forth in the applicable Coverage Part; or
2. With respect to any Coverage Part other than Cincinnati Data Defender™ Coverage Part, the Cincinnati Network Defender™ Coverage Part or the Cincinnati Cyber Defense™ Coverage Part, that meaning which is set forth in the applicable Coverage Part which shall precede the following:

   In the event that a **claim,** as defined herein, was first made during the policy period of any other policy issued by another insurer of which the applicable coverage part of this policy is a direct replacement but no **executive** was aware of such **claim** prior to the expiration of the time to give notice of such claim under such prior policy, such **claim** is deemed to be made on the first service date of **claim** upon any **insured** but only if such claim was submitted to the prior carrier and denied due solely to such **claim** not meeting the prior policy's definition of claim until after the expiration of that policy. However, if such **claim** or any **interrelated claim** was the subject of any notice under any prior policy issued by another carrier of which the applicable coverage part of this policy is a direct replacement and such **claim** was not denied by such prior insurer due to the failure to meet the prior policy's definition of claim until after the expiration of that policy, then such **claim** shall not be deemed to be first made during the **policy period**.

C. Cyber terrorism means the premeditated use of disruptive activities, or threat to use disruptive activities, against a computer system or network with the intention to cause harm, further social, ideological, religious, political or similar objectives, or to intimidate any person(s) in furtherance of such objectives. Provided, however, that such activities shall not be considered **cyber terrorism** when they are committed by or at the express direction of a government simultaneously engaged in an active conflict involving physical combat by one or more military forces of, or operating at the direction of, nation states or factions in the case of a civil war.

D. Debtor in possession means a "debtor in possession" as that term is defined in Title 11 of the United States Code, as amended.

E. Defense costs has the meaning set forth in the applicable coverage part.

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F. **Domestic partner** means a natural person who is not otherwise an insured, in a committed relationship with an **insured person**, which is legally recognizable as a marriage, civil union or domestic partnership in the state where the **claim** is made or suit is filed and the legal existence of the relationship is verifiable by legal, government documentation existing prior to the date of the **wrongful act** complained of in the **claim**.

G. **Executive** has the meaning set forth in the applicable coverage part.

H. **Extended reporting period** means the periods of time described in Section **XIX** of the General Provisions.

I. **Insured persons** has the meaning set forth in the applicable coverage part.

J. **Insured** has the meaning set forth in the applicable coverage part.

K. **Interrelated** means all events or incidents which have as a common nexus any:

1. Fact, circumstance, situation, event, transaction, or cause; or

2. Series of causally connected facts, circumstances, situations, events, transactions or causes.

L. **Loss** has the meaning set forth in the applicable coverage part.

M. **Named insured** means the entity or entities shown in the applicable Declarations as a Named Insured and any such entity in its capacity as a **debtor in possession**.

N. **Organization** has the meaning set forth in the applicable coverage part.

O. **Personal injury** has the meaning set forth in the applicable coverage part.

P. **Policy period** means the period from the inception date to the expiration date as set forth in the Declarations, or to the earlier date of cancellation of the applicable Coverage Part.

Q. **Policy year** means the period within the **policy period** from the inception date as set forth in the Declarations to the succeeding anniversary date exactly 1 year later at 12:01 AM standard time, and **policy year** means any subsequent annual period between anniversary dates at 12:01 AM standard time thereafter. In the event of a **policy period** less than 1 year, the **policy year** will be the same as the **policy period**.

In the event of an odd term **policy period** longer than 1 year, the **policy year** is the period from the inception date to the next chronological date which precedes the expiration date by exactly 1 or more years at 12:01 AM standard time. If there are subsequent annual periods remaining in the **policy period** after that date at 12:01 AM standard time, such annual periods will each be a **policy year**.

However, if after the issuance of this Coverage Part, any **policy year** is extended for an additional period of less than 12 months, that additional period of time will be deemed to be part of the last preceding **policy year**.

R. **Pollutants** mean any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acid, alkalis, chemicals, asbestos products, petroleum products and their by-products and waste. Waste includes material to be recycled, reconditioned or reclaimed. **Pollutants** does not mean noise. **Pollutants** include but are not limited to substances that are generally recognized in industry or government to be harmful or toxic to persons, property or the environment. regardless of whether the injury or damage is caused directly or indirectly by the **pollutants** and whether:

1. The insured is regularly or otherwise engaged in activities which taint or degrade the environment; or

2. The insured uses, generates or produces the **pollutant**.

S. **Subsidiary** means any entity in which the **named insured** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors, trustees, managers (if a limited liability company) or equivalent positions and any such entity in its capacity as a **debtor in possession**.

T. **Wrongful Act** has the meaning set forth in the applicable coverage part.

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SECTION II – EXCLUSIONS

A. Nuclear

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, in consequence of, or in any way involving the hazardous properties, including radioactive, toxic or explosive properties, of any nuclear material. Nuclear material means any source material, special nuclear material, or by-product materials as those terms are defined under the Atomic Energy Act of 1954 or any amendments thereto.

B. Pollution

We are not liable to pay, indemnify or defend any **claim** for:

1. The actual, alleged, or threatened exposure to discharge, generation, storage, transportation, dispersal, seepage, migration, emission, release, treatment, removal, disposal or escape of **pollutants**; or
2. Any request, demand, order or statutory or regulatory requirement that the **named insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **pollutants**; or
3. Any demand by or on behalf of any governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, **pollutants**.

However, as it applies to any Directors and Officers Liability Coverage (including Educators Legal Liability), this exclusion shall not apply to any **claim** to which Insuring Agreement **A.** solely applies.

C. Prior Knowledge

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of, or in any way involving any **wrongful act** committed, attempted or allegedly committed or attempted prior to the **policy period** of the applicable Coverage Part if:

1. Prior to the earlier of the following dates:
   a. The inception of the applicable Coverage Part;
   b. The inception of the original Coverage Part of which the applicable Coverage Part is a renewal or replacement; or
   c. The Continuity Date, if any, stated in the Declarations for the applicable Coverage Part;

   any **executive** knew that such **wrongful act** is or would reasonably be regarded as the basis of a **claim**; or
2. There is a previous policy under which the **insureds** are entitled to coverage for such **claim**.

D. Prior Notice

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, in consequence of, or in any way involving:

1. Any **wrongful act** or any fact, circumstance or situation which has been the subject of any accepted notice given prior to the **policy period** under any policy or coverage part of which this policy is a direct or indirect renewal or replacement; or
2. Any other **wrongful act** whenever occurring, which, together with a **wrongful act** which has been the subject of such accepted notice, would constitute **interrelated wrongful acts**.

E. Prior or Pending Proceeding

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of, or in any way involving any prior or pending demand or civil, criminal, administrative or regulatory proceeding against any **Insured** as of the Prior or Pending Date stated in the Declarations of the applicable coverage part or any fact, circumstance, situation, transaction or event underlying or alleged in such litigation, regardless of the legal theory asserted in such **claim**.

F. Telephone Consumer Protection Act

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged violation of:

1. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
2. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
3. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

G. War and Military Action

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, in consequence of, or in any way involving:

1. War, including undeclared or civil war; or
2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these;

regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage.

With respect to any action that comes within the terms of this exclusion and involves nuclear reaction or radiation, or radioactive contamination, this War and Military Action Exclusion supersedes Exclusion **A.** above.

With respect to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form only this exclusion will not apply to **cyber terrorism**.

SECTION III - SEVERABILITY OF EXCLUSIONS

With respect to determining the applicability of the above Exclusions, no **wrongful act** or knowledge possessed by any one of the **insureds** shall be imputed to any other **insureds** to determine if coverage is available, unless indicated otherwise.

SECTION IV - LIMITS OF INSURANCE, DEDUCTIBLES, MULTIPLE CLAIMS AND EXHAUSTION

A. If a single **claim** is covered under more than one Coverage Part, then our maximum liability for all **loss** resulting from such **claim** shall be the largest applicable Limit of Insurance available under any one of the applicable Coverage Parts.

B. The Deductibles for each Coverage Part apply separately to the respective Coverage Parts. If a single **claim** is covered under more than one Coverage Part, the applicable Deductibles shall be applied separately to the part of the **claim** covered by each Coverage Part but the sum of such Deductibles shall not exceed the largest applicable Deductible. The Deductibles shall be borne by the **insureds** uninsured and at their own risk.

C. If the aggregate Limit of Insurance for a particular Coverage Part is exhausted, then all of our obligations under that Coverage Part shall be deemed to be completely fulfilled and extinguished as of the date of such exhaustion. If the Shared Annual Aggregate Limit of Liability, if so set forth on the Common Policy Declarations, is exhausted, then all of our obligations under the policy for the remainder of the annual period as described in **SECTION IV.D.** below shall be deemed to be completely fulfilled and extinguished as of the date of such exhaustion.

D. The Limits of Insurance of each Coverage Part and the Shared Annual Aggregate Limit of Liability, if so set forth on the Common Policy Declarations, apply separately to each **policy year**. If the **policy period** of the respective Coverage Part is extended after issuance for an additional period of less than 12 months, the additional period will be deemed part of the last preceding period of the respective Coverage part for purposes of determining the Limits of Insurance.

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E. Regardless of the number of policies or Coverage Parts involved, all **claims** based upon or arising out of the same **wrongful act** or any **interrelated wrongful acts** shall be considered a single **claim**. Each **claim** shall be deemed to be first made at the earliest of the following times:

1. When notice of the earliest **claim** arising out of such **wrongful act** or **interrelated wrongful acts** is received in writing by an **insured** or by us, whichever comes first; or

2. When notice of a **wrongful act** giving rise to such **claim** is given pursuant to Section **VI** of the General Provisions.

F. In the event that more than one of the **insureds** is included in the same **claim**, the total amount of **loss** resulting from such **claim** and the Deductible shall be apportioned pro-rata among the **insureds** in proportion to their respective **loss** unless otherwise mutually agreed upon by the **insureds** and us.

SECTION V - DUTIES OF THE INSUREDS IN THE EVENT OF A CLAIM

As conditions precedent to coverage under this policy:

A. The **insureds** shall give us written notice of any **claim** made against any of the **insureds** for a **wrongful act** as soon as practicable after any **executive** of the **named insured** has knowledge of such **claim**, and shall cooperate and provide information as we may reasonably require, including but not limited to providing a description of the **claim**, the nature of the alleged **wrongful act**, the nature of the alleged injury, the names of the claimants, and the manner in which the **insureds** first became aware of the **claim**. As soon as practicable, the **insureds** shall furnish us with copies of reports, investigations, pleadings and other papers in connection with the **claim**.

B. The **insureds** shall provide us with all information, assistance and cooperation which we reasonably request and agree that in the event of a **claim** the **insureds** will do nothing which may prejudice our position or our potential or actual rights of recovery. The failure of any **insured person** to do so shall not impair the rights of any other **insured person** under this policy.

C. The **insureds** shall not settle any **claim**, incur any **defense costs** or otherwise assume any obligation or admit any liability with respect to any **claim** without our prior written consent. We shall be entitled to full information and all particulars we may request in order to reach a decision as to such consent. We shall not be liable for any settlement, **defense costs**, assumed obligation or admission to which we have not consented.

If the **insureds** fail to provide notice of any **claim** to us as required under this Section, we shall not be entitled to deny coverage for the **claim** based solely upon late notice unless we can demonstrate that our interests were materially prejudiced by reason of such late notice.

This Section does not apply to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form.

SECTION VI - NOTICE OF A WRONGFUL ACT

If prior to the end of the **policy period** of the applicable Coverage Part, any of the **insureds** first become aware of a specific **wrongful act** they believe is likely to give rise to a **claim**, and if any of the **insureds** give us written notice as soon as practicable, but prior to the end of the **policy period** of the applicable Coverage Part, of:

A. The specific **wrongful act**;

B. The injury or damage which has or may result therefrom; and

C. The circumstances by which the **insureds** first became aware thereof;

then any **claim** subsequently made arising out of such **wrongful act** shall be deemed to have been made when notice of the **wrongful act** was first given.

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SECTION VII - DIRECTION OF CORRESPONDENCE TO US

All notices and other materials provided to us pursuant to the terms of this policy shall be directed to the Management Liability Claims Manager at one of the following addresses:

A. MgmtLiabilityClaims@cinfin.com

B. The Cincinnati Insurance Company
P.O. Box 145496
Cincinnati, OH 45250-5496

SECTION VIII - APPLICATION

The **application** is the basis of this policy and is incorporated into and constitutes a part of this policy. It is agreed by the **insureds** that the statements in the **application** are their representations, that they are material and that this policy is issued in reliance upon the truth of such representations provided.

In the event that the **application** contains any misrepresentation or omission with respect to a specific **wrongful act** or the knowledge of any of the **insureds** of any matter which such **insured** has reason to believe may give rise to a future **claim** made with the intent to deceive or which materially affects the acceptability of the risk or hazard assumed by us, then no coverage shall be afforded for any **claim** based upon, arising from or in consequence of any such misrepresentation or omission. Such misrepresentation or omission shall not be imputed to any other **insureds** for purposes of determining the validity of this policy to such other **insureds** except:

A. Any **insured person** who knew that the statement or representation was not true as of the inception date of coverage;

B. The **organization** with respect to any **executive** who knew that the statement or representation was not true as of the inception date of coverage; and

C. The **organization** if the signer of the **application** knew that the statement or representation was untrue.

We shall not be entitled under any circumstances to void or rescind this policy with respect to any **insured**.

SECTION IX - CHANGES IN EXPOSURE

A. Change in Ownership of Named Insured

If during the **policy period** of the applicable Coverage Part:

1. The **named insured** consolidates with or merges into another entity such that such **named insured** is not the surviving entity;

2. Another entity or person or group of entities and/or persons acting in concert acquires more than 50% ownership of the **named insured** or voting rights which result in ownership or voting control by the other organization(s) or person(s) of more than 50% of the outstanding securities or voting rights representing the present right to vote for the election of directors, trustees or managers (if a limited liability company) of the **named insured**;

then, subject to all the other provisions of this policy, coverage under the applicable Coverage Part shall continue to apply to such **named insured** and its **insureds** until the end of the applicable **policy period** or any applicable **extended reporting period**, but only with respect to **claims** for **wrongful acts** committed, attempted or allegedly committed or attempted prior to such transaction. The **named insured** shall give written notice to us as soon as practicable, but in no event later than 90 days after such transaction.

B. Cessation of Subsidiaries

If during the **policy period** of the applicable Coverage Part any entity ceases to be a **subsidiary** as defined in the applicable Coverage Part, then, subject to all the other provisions of this policy, coverage under the applicable Coverage Part shall continue to apply to such entity and its **insureds** until the end of the applicable **policy period** or any applicable **extended reporting period**, but only with respect to **claims** for **wrongful acts** committed, attempted or allegedly committed or attempted prior to the date such entity ceases to be a **subsidiary**. The **named insured** shall give written notice to us as soon as practicable, but in no event later than 90 days after the entity ceases to be a **subsidiary**.

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C. Acquisition or Formation of Entity

If during the **policy period** of the applicable Coverage Part the **named insured** newly acquires or forms another entity over which such **named insured** maintains more than 50% ownership for the purpose of coverage under the Coverage Part applicable to such **named insured**, the newly acquired or formed entity shall be deemed to be a **subsidiary**; however, coverage shall be excess of any indemnification or insurance otherwise available to such newly acquired or formed entity from any other source. Furthermore, coverage does not apply to **claims** for **wrongful acts** committed, attempted or allegedly committed or attempted prior to the date the **named insured** acquired or formed the entity unless we agree, after presentation of a complete application and all appropriate information, to provide coverage by endorsement for such **claims** and the **named insured** pays any additional premium we require for the endorsement.

SECTION X - OTHER INSURANCE ISSUED BY ANOTHER INSURER

This insurance is primary except when all or any part of **loss** is also insured under any other valid and collectible prior or current policy. If any other insurance issued by another insurer (with the exception of insurance issued by us, any of our affiliated companies, or any of our predecessors or their affiliated companies) applies to any **claim**, then this insurance is excess over that other insurance, whether primary, excess, contingent or on any other basis, unless that other insurance was purchased specifically to apply excess over the limits provided in this policy. Furthermore, with respect to any coverage that may be provided for any **claim** for actual or alleged **personal injury**, such **claims** shall be specifically excess of any similar coverage provided by the **organization's** General Liability Policy.

When this policy is excess:

A. We will have no duty to defend any **claim** when any other insurer has that duty. If another insurer fails to defend and we incur costs as a result of such failure, we will be entitled to the **insureds'** rights against such other insurer; and

B. We will pay only our share of the amount of the **loss**, if any, that exceeds the sum of:

1. The total amount that all such other insurance would pay for the **loss** in the absence of this policy; and
2. The total of all deductible and self-insured amounts under all such other insurance.

SECTION XI - SPOUSE AND LEGAL REPRESENTATIVE EXTENSION

The liability coverage parts in this policy will, subject to all other terms, conditions and exclusions of the applicable Coverage Part and the General Provisions, be extended to apply to **claims** for the **wrongful acts** of an **insured person** made against:

A. The spouse or **domestic partner** of an **insured person** but only to the extent such person is a party to any **claim** solely in such person's capacity as a spouse or **domestic partner** of an **insured person** and only if the **claim** seeks damages recoverable from marital community property jointly held by the **insured person** and the spouse or **domestic partner**, or property transferred from the **insured person** to the spouse; or

B. Their estates, heirs, legal representatives or assigns in the event of their death, incapacity or bankruptcy.

We have no obligation to make any payment for **loss** in connection with any **claim** against a spouse, **domestic partner**, estates, heirs, legal representatives or assigns of an **insured person** for any actual or alleged, error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted or allegedly committed or attempted by such spouse, **domestic partner**, estates, heirs, legal representatives or assigns.

SECTION XII - MEDIATION AND ALLOCATION

A. Any dispute including but not limited to tort claims or contract claims between an **insured** and us arising out of or relating to this policy shall be submitted to non-binding mediation prior to commencement of an action between the parties. The mediator shall be chosen by agreement. If the parties cannot agree upon a mediator, the mediator shall be chosen by the American Arbitration Association.

B. If both **loss** covered by this policy and loss not covered by this policy are incurred in a **claim** for which coverage is afforded, either because a **claim**:

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1. Against an **insured** includes both covered and uncovered matters, we will pay 100% of **defense costs** and all remaining loss will be allocated between covered **loss** and uncovered loss based upon the relative legal exposure to the parties to such matters; or

2. Is made against both an **insured** and others, we will pay **defense costs** for our **insured**, and all remaining loss will be allocated between covered **loss** and uncovered loss based upon the relative legal exposure to the parties to such matters.

C. If we and the **insureds** cannot agree as to matters in **B.** above prior to a judgment or finding in the civil or administrative proceeding dealing with **claims** against the **insureds**, the parties agree that they will, to the extent it is within their control, require that the allocation between covered **loss** and uncovered loss is made in such civil or administrative proceeding. Such efforts shall include but are not limited to the submission of special interrogatories to the finder of fact in such proceeding. Such efforts shall not require us to become a party to such civil or administrative proceeding.

D. Notwithstanding **C.** above, if we and the **insureds** cannot agree as to matters in Section **B.** above prior to a judgment or finding in any civil or administrative proceeding in which such issues are decided, we may at any time before or after mediation under **A.** above settle all **claims** against any or all **insureds**. Following such settlement, any dispute between us and the **insureds** as to the proper allocation of covered and uncovered matters under **B.** above shall be submitted to non-binding mediation prior to the commencement of an action between the parties. In any event, only one mediation as to the same issues shall be required.

SECTION XIII - ACTION AGAINST US

A. No action shall be taken against us unless, as a condition precedent thereto, there has been full compliance with all of the terms of this policy and until the obligation of the **insureds** to pay shall have been finally determined, either by an adjudication against them or by written agreement of the **insureds**, the claimant and us. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. Bankruptcy or insolvency of an **insured** or of an **insured's** estate shall not relieve us of any of our obligations hereunder.

B. No person or organization shall have any right under this policy to join us as a party to any **claim**. Neither the **insureds** nor their legal representative shall implead us in any **claim**.

This Section does not apply to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form.

SECTION XIV - SUBROGATION

In the event of any payment under this policy, we shall be subrogated to all of the rights to recovery of the **insureds** to the extent of such payment. The **insureds** shall execute all papers required and shall do everything that may be necessary to secure and preserve such rights, including the execution of such documents as may be necessary to enable us to effectively bring suit in the name of the **insureds**.

SECTION XV - CHANGES IN THIS POLICY

No change or modification of, or assignment of interest under this policy shall be effective except when made by us through a written endorsement to this policy.

SECTION XVI - CONFORMITY TO STATUTE

Any terms of this policy which are in conflict with the terms of any applicable laws construing this policy are hereby amended to conform to such laws.

SECTION XVII - ENTIRE AGREEMENT

By acceptance of this policy, we and the **insureds** agree that this policy (including the **application**) and any written endorsements attached hereto constitute the entire agreement between the parties.

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SECTION XVIII - REPRESENTATION BY NAMED INSURED

The first **named insured** shall act on behalf of all of the **insureds** in purchasing this policy and for any purposes under the policy.

SECTION XIX - EXTENDED REPORTING PERIODS

A. Upon termination of any Coverage Parts for any reason, other than nonpayment of premium, the **named insured** shall be provided a 90 day Automatic Extended Reporting Period and have the option to replace the 90 day Automatic Extended Reporting Period with a 12 month Optional Extended Reporting Period. The **named insured** may also request an Optional Extended Reporting Period with a term longer than 12 months, which may be provided solely at our discretion.

1. Automatic Extended Reporting Period

   A 90 day Automatic Extended Reporting Period is automatically provided without additional charge. The Automatic Extended Reporting Period starts immediately after the end of the **policy period** of the applicable Coverage Part.

2. Optional Extended Reporting Periods

   a. The **named insured** shall have the option to purchase a 12 month Extended Reporting Period to replace the 90 day Automatic Extended Reporting Period for an additional premium equal to 75% of the expiring annual premium for the applicable Coverage Part.

   b. Additional Optional Extended Reporting Periods may be available for an additional premium charge if an Extended Reporting Period longer than 12 months is desired. It is solely our decision whether to permit the first **named insured** to purchase an Extended Reporting Period with a term longer than 12 months.

   The first **named insured** must give us a written request of their intent to purchase an Optional Extended Reporting Period within 60 days after the **policy period** of the applicable Coverage Part or that option shall terminate. The Optional Extended Reporting Period will not go into effect unless the first **named insured** pays the additional premium promptly when due.

B. The Extended Reporting Periods do not extend the **policy period** or change the scope of coverage provided. They extend the **claims** reporting period.

C. The Extended Reporting Periods extend coverage to **claims** first made during the length of time covered by the applicable Extended Reporting Period provided the **wrongful act** was committed, attempted or allegedly committed or attempted prior to the end of the **policy period** of the applicable Coverage Part, and all such **claims** shall be subject to all other terms, conditions and exclusions of the applicable Coverage Part and the General Provisions. Such **claims** must be reported in writing to us prior to the expiration of the applicable Extended Reporting Period.

D. The Extended Reporting Period, regardless of length does not reinstate or increase the Limits of Insurance of the applicable Coverage Part or the Shared Annual Aggregate Limit of Liability, if so set forth on the Common Policy Declarations. Our total liability shall not exceed the Limit of Insurance shown in the applicable Declarations for the last **policy year** in which coverage is provided hereunder.

E. Any Extended Reporting Period will immediately terminate on the effective date and time of any other insurance issued to the **insureds** which replaces this insurance. The entire premium for any Extended Reporting Period shall be fully earned at the commencement of any Extended Reporting Period.

F. If the terms under this section are invoked under the Cincinnati Data Defender™ Coverage Part or the Cincinnati Cyber Defense™ Coverage Part, the term **claim** as used in this section may also mean **regulatory proceeding.**

SECTION XX - COVERAGE TERRITORY

This policy applies to any **claim** for a **wrongful act** committed, attempted or allegedly committed or attempted anywhere in the world unless indicated otherwise. However, if insurance provided by this policy would be in violation of any United States economic or trade sanctions, such insurance shall be null and void.

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SECTION XXI - LIBERALIZATION

If we adopt any revision that would broaden the coverage under this insurance and would be effective during the **policy period** without additional premium, the broadened coverage will immediately apply to this insurance as of the latter of:

A. The date we implemented the change in the headquarters state which is the basis upon which the policy was issued; or

B. The date the applicable Coverage Part became effective.

SECTION XXII - PARENT COMPANY AND FRANCHISOR EXTENSION

Upon written request of the president, chairperson or equivalent position of the **named insured,** we shall extend coverage under this policy to **defense costs** resulting from any **claim** made against a parent company or franchisor of the **named insured** or any **subsidiary** but only if and so long as:

A. The **claim** arises out of a **wrongful act** actually or allegedly committed solely by an **insured**;

B. The **insured** is included as a co-defendant in addition to the parent company or franchisor; and

C. The **insured** as well as the parent company or franchisor are represented by the same counsel in connection with such **claim.**

For the purposes of this extension, a parent company or franchisor shall include:

A. Any entity other than a natural person which owns more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors, trustees, managers (if a limited liability company) or equivalent of a **named insured** or **subsidiary**; or

B. Any franchisor who has granted to an **insured** under a franchise agreement any franchise or franchise rights to allow the **insured** to operate as a franchisee or a franchised dealer.

This Section does not apply to the Cincinnati Data Defender™ Coverage Form, the Cincinnati Network Defender™ Coverage Form or the Cincinnati Cyber Defense™ Coverage Form.

SECTION XXIII – STATE INCONSISTENCY

In the event there is an inconsistency between a state amendatory endorsement attached to this policy and any term or condition of this policy, then where permitted by law, we shall apply those terms and conditions which are most favorable to the **insured.**

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TERRORISM EXCLUSION

This endorsement modifies insurance provided under the following:

CRIME COVERAGE
GENERAL PROVISIONS APPLICABLE TO ALL LIABILITY COVERAGE PARTS

A. The following exclusion is added:

Exclusion of Certified Acts and Other Acts of Terrorism

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving a **certified act of terrorism** or any **other act of terrorism**, regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage.

However, with respect to an **other act of terrorism**, this exclusion only applies if one or more of the following are attributable to an **other act of terrorism**:

1. The total of insured damage to all types of property exceeds $25,000,000. In determining whether the $25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by an **other act of terrorism** and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions;
2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
   a. Physical injury that involves a substantial risk of death;
   b. Protracted and obvious physical disfigurement; or
   c. Protracted loss of or impairment of the function of a bodily member or organ;
3. The **other act of terrorism** involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination;
4. The **other act of terrorism** is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the **other act of terrorism** was to release such materials.

Paragraphs **1.** and **2.** immediately preceding, describe the thresholds used to measure the magnitude of an **other act of terrorism** and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that **other act of terrorism**. When this exclusion applies to an **other act of terrorism**, there is no coverage under this policy.

Multiple incidents of **other acts of terrorism** which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

B. The following definitions are added:

1. **Certified act of terrorism** means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a **certified act of terrorism** include the following:
   a. The act resulted in insured losses in excess of $5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and

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b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

2. **Other act of terrorism** means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce the civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a **certified act of terrorism**.

C. APPLICATION OF OTHER EXCLUSIONS

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any **loss** which would otherwise be excluded under this policy, such as **losses** excluded by:

1. Exclusions that address war, warlike action, insurrection, rebellion, revolution, military action, nuclear hazard, nuclear materials, nuclear reaction, radiation, or radioactive contamination;
2. Exclusions that address pollutants, contamination, deterioration, fungi or bacteria; or
3. Any other exclusion,

regardless if the **certified act of terrorism** or **other act of terrorism** contributes concurrently or in any sequence to the **loss**, injury or damage.

D. SUPERSESSION

The exclusion stated in Section **A.** of this endorsement supersedes any offer of terrorism coverage.

E. SUNSET CLAUSE

If the federal Terrorism Risk Insurance Act expires or is repealed, then this endorsement is null and void for any act of terrorism, except **other acts of terrorism**, that takes place after the expiration or repeal of the Act.

All other provisions of the policy remain unchanged except as herein expressly modified.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARIZONA CHANGES - CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

PILLAR POLICY PROGRAM

The following provision is added:

CANCELLATION AND NONRENEWAL

A. The first **named insured** may cancel this policy or any of its Coverage Parts by mailing or delivering to us advance written notice of cancellation.

B. We may cancel this policy or any of its Coverage Parts by sending to the first **named insured** written notice of cancellation at least:

1. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
2. 60 days before the effective date of cancellation if we cancel for any other reason. Such notice may only be sent for cancellation effective at a policy anniversary at the end of a **policy year**.

C. We will send our notice to the first **named insured.**

D. Notice of cancellation will state the effective date of cancellation. The **policy period** will end on that date.

E. If this policy is cancelled, we will send the first **named insured** any premium refund due. The refund will be pro rata. The cancellation will be effective even if we have not made or offered a refund.

F. If notice is mailed, proof of mailing will be sufficient proof of notice.

G. If this policy has been in effect for 60 days or more, or if this policy is a renewal of a policy we issued, this policy or any of its Coverage Parts may be cancelled by us, by providing written notice to the first **named insured**, only for one or more of the following reasons:

- **a.** Nonpayment of premium;
- **b.** The first **named insured's** conviction of a crime arising out of acts increasing the hazard insured against;
- **c.** Acts or omissions by the first **named insured** or the first **named insured's** representative constituting fraud or material misrepresentation in the procurement of this policy, in continuing this policy or in presenting a claim under this policy;
- **d.** Substantial change in the risk assumed, except to the extent that we should have reasonably foreseen the change or contemplated the risk in writing the contract;
- **e.** Substantial breach of contractual duties or conditions;
- **f.** Loss of reinsurance applicable to the risk insured against resulting from termination of treaty or facultative reinsurance initiated by our reinsurer or reinsurers;
- **g.** Determination by the Director of Insurance that the continuation of the policy would place us in violation of the insurance laws of this state or would jeopardize our solvency; or
- **h.** Acts or omissions by the first **named insured** or the first **named insured's** representative which materially increase the hazard insured against.

If we cancel this policy based on one or more of the above reasons, we will send to the first **named insured**, and send to the agent, if any, written notice of cancellation stating the reason(s) for cancellation. We will send this notice at least:

- **a.** 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or

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b. 60 days before the effective date of cancellation if we cancel for any of the other reasons. Such notice may only be sent for cancellation effective at a policy anniversary at the end of a **policy year**.

The coverage that is the subject of the cancellation notice shall terminate at the date and hour specified in such notice.

H. Nonrenewal

1. If we elect not to renew this policy or a particular Coverage Part, we will send to the first **named insured**, and send to the agent, if any, written notice of nonrenewal. We will send this notice at least 60 days prior to:

a. The expiration of this policy; or

b. The end of a **policy year**, if the policy is written for a term of more than one year.

2. If either one of the following occurs, we are not required to provide written notice of nonrenewal:

a. We or a company within the same insurance group has offered to issue a renewal policy; or

b. The first **named insured** has obtained replacement coverage or agreed in writing to do so.

3. If written notice of nonrenewal is sent less than 60 days prior to expiration of this policy, and neither **2.a.** or **2.b.** applies, the coverage shall remain in effect until 60 days after the notice is sent. Earned premium for any period of coverage that extends beyond the expiration date of this policy shall be considered pro rata based on the previous year's rate.

I. Renewal

1. If we elect to renew this policy and the renewal is subject to any of the following:

a. Increase in premium;

b. Change in deductible;

c. Reduction in limits of insurance; or

d. Substantial reduction in coverage;

we will send written notice of the change(s) to the first **named insured** at least 30 days before the anniversary or expiration date of the policy.

2. If renewal is subject to any condition described in **1.a.** through **1.d.** above, and we fail to provide notice 30 days before the anniversary or expiration date of this policy, the following procedures apply:

a. The present policy will remain in effect until the earlier of the following:

(1) 30 days after the date of sending the notice; or

(2) The effective date of replacement coverage obtained by the first **named insured**.

b. If the first **named insured** elects not to renew, any earned premium for the period of extension of the terminated policy will be calculated pro rata at the lower of the following rates:

(1) The rates applicable to the terminated policy; or

(2) The rates presently in effect.

c. If the first **named insured** accepts the renewal, the premium increase, if any, and other changes are effective the day following this policy's anniversary or expiration date.

d. Notice shall be considered given if we deliver new policy terms and conditions 30 days before the expiration date of the policy.

All other provisions of the policy remain unchanged except as herein expressly modified.

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NOTICE OF LOSS CONTROL SERVICES

The Cincinnati Insurance Companies provide certain loss prevention services to policyholders at no additional cost. These services are designed to prevent or reduce the impact of potential loss causing events or conditions related to the type(s) of insurance coverage you have purchased from us. One of these services that you can receive is described below:

Employment Practices Liability (EPL) Toll-Free Hot Line

Have a question on how to handle an employment situation? Simply call The Cincinnati Insurance Companies Employment Connection at 1-888-811-3427 for assistance. We offer policyholders an unlimited number of calls seeking advice on employment policies and procedures.

The services provided are advisory in nature. While this program is offered as a resource in developing or maintaining a loss prevention program, you should consult competent legal counsel to design and implement your own program. No liability is assumed by reason of the services, access or information provided. All services are subject to change without notice. Use of the EPL Toll-Free Hot Line will not be deemed to satisfy any notice of claim or notice of wrongful act provision contained in any policy.

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NOTICE OF LOSS CONTROL SERVICES - COMMUNITY ASSOCIATIONS

The Cincinnati Insurance Companies provide certain loss control services to policyholders at no additional cost. These services are designed to help you prevent or reduce the impact of a potential loss related to the type(s) of insurance coverage you have purchased from us. One of these services that you can receive is described below:

Community Association Toll-Free Help Line

If you have a question or concern about reducing or avoiding a potential wrongful acts loss, please call 844-458-9556 for assistance. Please leave your contact information, policy number and your question or concern, and a lawyer will return your call, usually within one business day. Calls will be subject to a one hour per policyholder time limit.

The services provided are advisory in nature. While this program is offered as a resource in developing or maintaining a loss prevention program, policyholders should consult legal counsel in your state to design and implement your own program. No liability is assumed by reason of the services, access or information provided. All services are subject to change without notice. Use of the Community Association Toll-Free Help Line will not be deemed to satisfy any notice of claim or notice of wrongful act provision contained in any policy. Refer to your policy for a complete statement of coverages, exclusions and limits of insurance.

CERTIFIED ACTS AND OTHER ACTS OF TERRORISM EXCLUSION ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this notice nor can it be construed to replace any provision of your policy. You should read your policy and review your Declarations Page for complete information on the coverages you are provided. If there is any conflict between the policy and this Advisory Notice to Policyholders, **THE PROVISIONS OF YOUR POLICY SHALL PREVAIL.**

The purpose of this notice is to evidence your rejection of coverage for Certified Acts and Other Acts of Terrorism. At your request, your policy contains an exclusion for Certified Acts and Other Acts of Terrorism. For information regarding the availability of coverage for Certified Acts and Other Acts of Terrorism, subject to an additional premium, please contact your insurance agent.

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NOTICE OF PRIVACY PRACTICES

For additional information on our privacy policies, including state specific information, please visit https://www.cinfin.com/privacy-policy.

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THE CINCINNATI INSURANCE COMPANY
THE CINCINNATI CASUALTY COMPANY
THE CINCINNATI INDEMNITY COMPANY

NOTICE TO POLICYHOLDERS

Please be advised that in your application for insurance you disclosed information to The Cincinnati Insurance Company, The Cincinnati Casualty Company and The Cincinnati Indemnity Company. The information disclosed in the application and all information subsequently collected by any of these companies may be shared among all three.

NOTICE OF LOSS CONTROL SERVICES

The Cincinnati Insurance Companies provide certain loss prevention services to policyholders at no additional cost for those insureds who have purchased our cyber risk coverages: Cincinnati Cyber Defense™, Cincinnati Data Defender™ or Cincinnati Network Defender™. These services are designed to prevent or reduce the impact of potential loss causing events or conditions related to the type(s) of insurance coverage you have purchased from us. These services include those described below:

Cyber Risk Management Resources

You gain access to *https://eriskhub.com/cic*, a portal that provides you with news, information and tools you can use to help mitigate a hacking event, virus infection or other cyberattack. The My Tech Support service available on this portal can also help you diagnose and fix common computer problems including some virus infections. It also provides you with the comprehensive, on-demand resources you need to:

- Create your breach response plan from the template
- Learn about breach laws that apply to your business
- Use the compliance reference guide and notification letter examples
- Locate credit bureau and government agency notification information
- Learn how to contact data risk management experts for more help

In addition, you are entitled to two hours of risk management services at no additional charge – one hour of pre-incident cyber/privacy risk legal consulting with one of the participating law firms, and one hour of cybersecurity risk consulting services with one of the participating cybersecurity vendors. While some of the services are similar – such as risk assessment, incident response planning and review – the law firm services focus on legal requirements, while cybersecurity vendors focus on technical cybersecurity requirements. To take advantage of these risk management services anytime, visit https://eriskhub.com/cic for a list of participating companies. You may be asked to provide your policy number.

The first time you visit this portal, please complete new user registration using this information:

Access code = 12116-868

Identity Recovery Help Line

If you have purchased Cincinnati Cyber Defense™ or Cincinnati Data Defender™, your coverage also includes case management services and reimbursement for covered expenses if you are a covered key person and you become the victim of identity theft or account takeover. Please call our Identity Recovery Help Line, 866-219-9831, if you suspect that you may be an identity theft victim or you have questions.

Claims Service

If you suspect or know that a data breach may have exposed or compromised your organization's private, customer or personal data, a swift response is critical for your protection. Please note that the cyber risk management portal and help line provide advice and information, and using them does not satisfy any notice of claim requirement. The only way to report a claim is to contact your independent agent or call us directly, 877-242-2544, for claims service anytime. Your agent and Cincinnati Insurance will work with you to preserve your company's goodwill, prevent regulatory sanctions or fines, avoid civil litigation and safeguard your business reputation.

The services provided are advisory in nature. While this program is offered as a resource in developing or maintaining a loss prevention program, you should consult competent legal counsel to design and implement your own program. No liability is assumed by reason of the services, access or information provided. All services are subject to change without notice. Refer to your policy for a complete statement of coverages, exclusions and limits of insurance.

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SIGNATURE ENDORSEMENT

IN WITNESS WHEREOF, this policy has been signed by our President and Secretary in the City of Fairfield, Ohio, but this policy shall not be binding upon us unless countersigned by an authorized representative of ours. The failure to countersign does not void coverage in Arizona, Virginia and Wisconsin.

Secretary

President

The signature on any form, endorsement, policy, declarations, jacket or application other than the signature of the President or Secretary named above is deleted and replaced by the above signatures.

The Cincinnati Insurance Company

A Stock Insurance Company

COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE PART DECLARATIONS

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

Policy Number: EMO 069 81 50

Named Insured is the same as it appears in the Common Policy Dedarations unless another entry is made here.

Limit of Insurance:	$ 1,000,000	in the aggregate
Investigative Costs Sublimit:	$ 100,000	in the aggregate
Excess Benefit Transaction Tax Sublimit:	$ 20,000	sublimit per **organizational manager**
Additional Defense Limit of Insurance:	$ UNLIMITED	in the aggregate
Excess Side A Limit of Insurance:	$ NOT COVERED	in the aggregate

Deductibles:	$ 0	each **claim** under Insuring Agreement **A** (Insured Persons)
	$ 5,000	each **claim** under Insuring Agreement **B** (Indemnification)
	$ 5,000	each **claim** under Insuring Agreement **C** (Organization)

Retroactive Date:	N/A
Prior or Pending Date:	05-10-2013
Continuity Date:	05-10-2013

Forms and endorsements applicable to this coverage part:

ML106	01/18	COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE
IA450A	11/87	PROPERTY MANAGER AMENDATORY ENDORSEMENT
ML207	01/21	CAPITAL ENDORSEMENT
ML357	01/21	AMENDED CYBER EXCLUSION
ML360	01/21	BIOMETRIC INFORMATION PRIVACY EXCLUSION

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COMMUNITY ASSOCIATION
DIRECTORS AND OFFICERS LIABILITY COVERAGE

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COMMUNITY ASSOCIATION
DIRECTORS AND OFFICERS LIABILITY COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

SECTION I - INSURING AGREEMENTS

A. We will pay on behalf of the **insured persons** all **loss** which they shall be legally obligated to pay, except for such **loss** which the **organization** actually pays as indemnification, resulting from any **claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for a **wrongful act**.

B. We will pay on behalf of the **organization** all **loss** which the **organization** is required to pay as indemnification to the **insured persons** resulting from any **claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for a **wrongful act**.

C. We will pay on behalf of the **organization** all **loss** which the **organization** is required to pay resulting from any **claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, against the **organization** for a **wrongful act**.

We will have the right and duty to select counsel and defend the **insureds** against any such **claim**.

SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

A. Claim means:

1. A written demand for monetary damages or non-monetary relief;
2. A civil proceeding commenced by the filing of a complaint or similar pleading;
3. A formal administrative or regulatory proceeding commenced by the filing of a complaint, charge, formal investigative order or similar document;
4. An arbitration, mediation or similar alternative dispute resolution proceeding in which monetary damages are sought if the **insured**:
   - **a.** Is required to participate in such proceeding; or
   - **b.** Agrees to participate in such proceeding with our written consent, such consent not to be unreasonably withheld;
5. A criminal proceeding commenced by the return of an indictment;
6. A written request to toll or waive a statute of limitations related to a potential **claim** described in Definitions **A.1** through **A.5.** above; or
7. A civil, administrative, regulatory or criminal investigation of an **insured person** once such **insured person** is identified in writing by such investigating authority as a person against whom a proceeding described in Definitions **A.2., A.3** or **A.5.** may be commenced. The maximum Limit of Insurance for all such investigations against any **insured persons** shall be the Investigative Costs Sublimit set forth in the Community Association Directors and Officers Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Community Association Directors and Officers Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part;

against any **insured**, including any appeal therefrom.

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B. **Defense costs** means reasonable and necessary fees, costs, and expenses incurred by us or with our consent on behalf of the **insureds** or reimbursed to any of the **insureds** by us, resulting solely from the investigation, adjustment, defense and appeal of any **claim**. **Defense costs** includes, but is not limited to, the cost of expert consultants and witnesses, and premiums for appeal, injunction, attachment or supersedeas bonds (but not the obligation to furnish such bonds).

Defense costs shall not include:

1. Salaries, wages, fees, overhead or expenses of our employees or any **insureds**, directors, officers, trustees or employees, other than that portion of our employed attorneys' fees, salaries and expenses allocated to a specific **claim**;
2. Any amount covered by the duty to defend obligation of any other insurer; or
3. Any pre-tender fees, costs or expenses.

C. **Directors and officers** means all natural persons who were, now are, or shall become an officer, a duly elected or appointed member of the board of directors, trustees, regents, managers, governors, a **LLC manager** or an equivalent position of the **organization**.

D. **Disqualified person** means a disqualified person as that term is defined in Section 4958 of the Internal Revenue Code of 1986, as amended.

E. **Employee** includes, but is not limited to, all natural persons who were, now are, or shall become full-time, part-time, seasonal, volunteer, contingent or leased workers of the **organization** as determined by federal, state or local law. **Employee** does not include independent contractors as determined by federal, state or local law.

F. **Employment related wrongful act** means a **wrongful act** arising from employment related activities including, but not limited to, hiring, training, supervision, evaluation, promotion, demotion, granting of tenure, and termination.

G. **Excess benefit transaction** means an excess benefit transaction as that term is defined in Section 4958 of the Internal Revenue Code of 1986, as amended.

H. **Excess benefit transaction tax** means any excise tax imposed by the Internal Revenue Service on any **insured** who is an **organizational manager** as a result of such **insured's** participation in an **excess benefit transaction**.

I. **Executive** means any natural person who was, now is or shall become the chairperson, president or person of equivalent position to any of the foregoing of the **organization**.

J. **Financial impairment** means, with respect to the **organization** or any **outside organization**, the appointment of any receiver, conservator, liquidator, rehabilitator, trustee or similar official; or the **organization** or any **outside organization** becoming a **debtor in possession**.

K. **Insured** means the **organization** and the **insured persons**.

L. **Insured persons** means:

1. **Directors and officers**;
2. All natural persons who were, now are, or shall become an **employee** or committee member, whether or not they were, are or shall be compensated, of the **organization**;
3. All natural persons who were, now are, or shall become members or volunteers of the **organization** while acting on behalf of the **organization** in a voluntary capacity at the direction of the **directors and officers**; and
4. Any natural person who is a property manager or an employee of a property management company, but only for **claims** arising out of their **wrongful acts** while acting at the direction of the **named insured** or any **subsidiary** or arising out of the **wrongful acts** of the **insureds** for which the property management company's employees are vicariously liable; provided, however, that any coverage under this Coverage Part for any such property manager shall be excess of any indemnification or insurance otherwise available to such property manager from any other source.

M. **LLC manager** means any natural person who was, now is or shall become a manager, member of the board of managers or member of the **organization** that is a limited liability company but only with respect to the conduct of the limited liability company's business. However, any member of a limited liability company who is a passive investor not involved in the operations of the limited liability company is not a **LLC manager.**

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N. **Loss** means **defense costs** and the total amount of monetary damages which the **insured** becomes legally obligated to pay on account of any **claim** for a **wrongful act** with respect to which coverage hereunder applies, including damages, judgments, settlements, prejudgment and postjudgment interest, and punitive or exemplary damages or the multiplied portion of any multiplied damage award if insurable under the applicable law most favorable to the insurability of punitive, exemplary or multiplied damages.

Loss shall also indude:

Any **excess benefit transaction tax** an **insured** is obligated to pay as a result of a **claim**. The maximum Limit of Insurance per each **organizational manager** for any **excess benefit transaction tax** shall be the Excess Benefit Transaction Tax Sublimit set forth in the Community Association Directors and Officers Liability Coverage Part Declarations. This sublimit shall be part of and not in addition to the Limit of Insurance set forth in the Community Association Directors and Officers Liability Coverage Part Declarations and does not increase our maximum aggregate liability under this Coverage Part. The **excess benefit transaction tax** shall not include the 25% excise tax assessed against any **disqualified person** or the 200% tax assessed for failure to correct an **excess benefit transaction**.

Loss shall not include:

1. Taxes, criminal or civil fines or penalties imposed by law, except as noted above;
2. Any restitution, disgorgement or similar sums; or
3. Any matter deemed uninsurable under the law pursuant to which this Coverage Part shall be construed.

O. **Organization** means:

1. The **named insured**;
2. Any **subsidiary**; and
3. A property management company, but only for claims arising out of its **wrongful acts** while acting at the direction of the **named insured** or arising out of the **wrongful acts** of the **insureds** for which the property management company is vicariously liable.

P. **Organizational manager** means an organizational manager as that term is defined in Section 4958 of the Internal Revenue Code of 1986, as amended.

Q. **Outside organization** means any nonprofit corporation or organization other than the **organization**, which is described in Section 501(c)(2), (3), (4), (6), (7), (8), (10), (19), or 501(d) of the Internal Revenue Code of 1986, as amended, and is exempt from federal income taxation.

R. **Outside position** means the service of any **insured person** of the **organization** as an officer or member of the board of directors, trustees, regents, managers, governors, or equivalent position in any **outside organization** but only during the time that such service is performed at the direction of the **organization** or with the consent and knowledge of the **organization**.

S. **Personal injury** means invasion of privacy, wrongful entry, eviction, false arrest, false imprisonment, false detention, abuse of process, malicious prosecution, libel, slander, defamation, or disparaging of a person's or organization's goods, products or services.

T. **Property damage** means:

1. Injury or damage, of any nature, to tangible or intangible property, including all resulting loss of use of that property; or
2. Loss of or loss of use of tangible or intangible property that is not otherwise injured or damaged.

U. **Publishers liability** means infringement of copyright, trademark, service mark or trade name, unauthorized use of title, plagiarism or misappropriation of ideas.

V. **Third party** means any natural person who is not an **employee** of the **organization**.

W. **Wrongful act** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty including any **personal injury** or **publishers liability** committed, attempted or allegedly committed or attempted on or after the Retroactive Date, if any, set forth in the Community Association Directors and Officers Liability Coverage Part Declarations and prior to the end of the **policy period** by:

1. Any of the **insured persons** in the discharge of their duties solely in their capacity as **insured persons** of the **organization**;

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2. Any of the **insured persons** of the **organization** in the discharge of their duties solely in their capacity in an **outside position** in any **outside organization**;

3. Any of the **insured persons** solely by reason of their status as such; or

4. The **organization**.

SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

A. Bodily Injury/Property Damage

We are not liable to pay, indemnify or defend any **claim** for actual or alleged:

1. Bodily injury, sickness, disease, or death of any person, mental anguish, or emotional distress; or

2. **Property damage**, including, but not limited to, physical injury, loss of or loss of use of currency or any negotiable or non-negotiable instruments or contracts representing money.

B. Conduct

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of any of the **insureds** or any person for whose actions the **insureds** are legally responsible:

1. Committing any deliberately fraudulent act or omission;

2. Committing any willful violation of any statute or regulation; or

3. Gaining any profit, remuneration or advantage to which they were not legally entitled;

if established by a final and non-appealable judgment or adjudication in any underlying action or proceeding adverse to the **insureds** as to such conduct.

With respect to determining the applicability of this exclusion, no conduct pertaining to any **insured person** shall be imputed to any other **insured person**; however, any conduct pertaining to any **executive** shall be imputed to the **organization** to determine if coverage is available.

C. Contract

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged liability of any **insureds** under the terms, conditions or warranties of any oral or written contract or agreement, except:

1. To the extent the liability would have attached to any such **insureds** in the absence thereof; or

2. With respect to **defense costs** only, any **claim** brought by or on behalf of any member of the **organization** which is based upon, arising from, or in consequence of any actual or alleged breach of the **organization's** covenants, conditions and restrictions or by-laws;

provided, however, that this exclusion shall not apply to **defense costs** with respect to any **claim** against any **insured persons**.

D. Cyber

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged:

1. Improper dissemination of personally identifiable information or protected health information;

2. Liability of any **insured** arising out of internet and electronic services which are performed for or on behalf of any client or customer of the **organization** through the transmission of electronic data to or from the **organization's** internet website or through a private computer network controlled by the **organization**; or

3. Liability of any **insured** for internet professional services the **organization** provides to others which may include, but are not limited to, application service provider, domain name registration services, electronic exchange and auction services, internet hosting services, internet media services, internet service provider service, managed and network security services, public key infrastructure services, search engine services, web portal services, website development, software development and internet access provider;

provided, however, that this exclusion shall not apply to any **claim** to which Insuring Agreement **A.** solely applies.

E. Employment Practices

We are not liable to pay, indemnify or defend any **claim** for an **employment related wrongful act**.

F. ERISA

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged violation of the Employee Retirement Income Security Act of 1974, as amended or any rules, regulations or orders promulgated thereunder or any similar provisions of any federal, state or local statutory or common law in connection with any pension or welfare plan established for the benefit of **employees** of the **organization**.

G. Intellectual Property

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of, or in consequence of any actual or alleged infringement of patent or misappropriation of trade secrets or other intellectual property rights; provided, however, that this exclusion shall not apply to any **publishers liability**. Furthermore, this exclusion shall not apply to any **claim** against any **insured persons**.

H. Organization vs. Insured

We are not liable to pay, indemnify or defend any **claim** brought or maintained by the **organization**; provided, however, that this exclusion does not apply to any **claim** brought or maintained as a derivative action on behalf of the **organization** by one or more persons who are not **insured persons** and who bring and maintain the **claim** without the solicitation, assistance or participation of any of the **insureds**.

I. Outside Service

We are not liable to pay, indemnify or defend any **claim** for any **wrongful act** in the discharge of the duties of any of the **insured persons** as a director, officer, trustee, employee, volunteer or member of any entity other than the **organization**, even if directed or requested to serve such other entity by the **organization;** provided, however, that this exclusion shall not apply to the extent:

1. Such **claim** is based on the service of an **insured person** in an **outside position**; and
2. The **loss** resulting from such **claim** is not indemnified by the **outside organization** or any of its insurers.

J. Third Party Discrimination or Sexual Harassment

We are not liable to pay, indemnify or defend any **claim** for any discrimination against or sexual harassment of any **third party**.

SECTION IV - SEVERABILITY OF EXCLUSIONS

With respect to determining the applicability of the above exclusions, no **wrongful act** or knowledge possessed by any one of the **insureds** shall be imputed to any other **insureds** to determine if coverage is available, unless indicated otherwise.

SECTION V - LIMIT OF INSURANCE AND DEDUCTIBLES

A. We will pay 100% of **loss** in excess of the applicable Deductible amount set forth in the Community Association Directors and Officers Liability Coverage Part Declarations up to the Limit of Insurance set forth in the Community Association Directors and Officers Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.

B. In the event a single **claim** is covered under more than one Insuring Agreement, the Deductibles set forth in the Community Association Directors and Officers Liability Coverage Part Declarations shall be applied separately to the part of the **loss** resulting from such **claim** covered by each Insuring Agreement and the sum of the Deductibles so applied shall constitute the Deductible for each single **claim**; provided, however, that the total Deductible as finally determined shall in no event exceed the largest of the applicable Deductibles. Notwithstanding the aforementioned, the Deductible applicable to Insuring Agreement **B.** shall apply to **loss** payable under any of the Insuring Agreements for which indemnification by the **organization** is legally permissible, whether or not actual indemnification is granted, unless the **organization** fails to indemnify any **insured person** due to the **financial impairment** of the **organization**. The Deductible shall be paid by the **organization**. Any **loss** paid by us within the Deductible shall be reimbursed by the **organization** within 30 days of our written request for such reimbursement.

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C. **Defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Community Association Directors and Officers Liability Coverage Part Declarations and the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations. **Defense costs** we pay shall reduce such Limits of Insurance. **Defense costs** paid by the **organization** shall be applied against the Deductible.

D. Our maximum aggregate liability for all **loss** resulting from all **claims** under this Coverage Part shall be the Limit of Insurance set forth in the Community Association Directors and Officers Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.

E. If an Additional Defense Limit of Insurance is set forth in the Community Association Directors and Officers Liability Coverage Part Declarations, **defense costs** will apply first to and reduce the Additional Defense Limit of Insurance. The Additional Defense Limit of Insurance will be in addition to and not part of the Limit of Insurance set forth in the Community Association Directors and Officers Liability Coverage Part Declarations. The Additional Defense Limit of Liability is applicable to **defense costs** only. **Defense costs** paid by the **organization** shall be applied against the Deductible.

Upon exhaustion of the Additional Defense Limit of Insurance, **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Community Association Directors and Officers Liability Coverage Part Declarations. **Defense costs** we pay shall reduce the Limit of Insurance.

F. If an Excess Side A Limit of Insurance is set forth in the Community Association Directors and Officers Liability Coverage Part Declarations and if the Limit of Insurance has been exhausted, we provide the **insured persons** with an excess limit of insurance under Insuring Agreement **A.** Such Excess Side A Limit of Insurance will not exceed the amount set forth in the Community Association Directors and Officers Liability Coverage Part Declarations. The Excess Side A Limit of Insurance is in addition to and not part of the Limit of Insurance, and it applies solely to **loss** resulting from any **claim** against an **insured person** to which Insuring Agreement **A.** is applicable

G. It is agreed that:

1. If a **loss** from any **claim** is payable but such payment would exceed the remaining applicable Limit of Insurance as set forth in the Community Association Directors and Officers Liability Coverage Part Declarations, we will first pay the unpaid portion of such **loss** under Insuring Agreement **A.**; then to the extent that any amount of the applicable Limit of Insurance shall remain available, we will pay such **loss** to which Insuring Agreements **B.** and **C.** apply.

2. Upon written request of the president, chairperson or equivalent position of the **named insured**, we shall withhold payment of a covered **loss** under Insuring Agreements **B.** and **C.** until the president, chairperson or equivalent position of the **named insured** directs us to pay such covered **loss**. Such request shall not delay any payment under Insuring Agreement **A.**

SECTION VI - DEFENSE, INVESTIGATION AND SETTLEMENT

A. We will have the right and duty to select counsel and defend the **insureds** against any **claim**; however, we will have no duty to defend the **insureds** against any **claim** to which this insurance does not apply.

B. We may make any investigation we deem necessary and may, with the consent of the **insureds** named in connection with the **claim**, make any settlement of any **claim** we deem expedient. If the **insureds** withhold consent to such settlement, our liability for all **loss** in connection with such **claim** shall not exceed:

1. The amount of the proposed settlement plus **defense costs** incurred up to the date of the **insured's** refusal to consent to the proposed settlement; plus

2. 90% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 90% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement, subject in all events to the applicable Limit of Insurance and Deductible for such **claim**. The remaining 10% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 10% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement shall be borne by the **insureds**, uninsured and at their own risk.

C. Our right and duty to defend end when we have used up the applicable Limit of Insurance in the defense or payment of damages, judgments or settlements of covered **claims**.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PROPERTY MANAGER AMENDATORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVAGRE PART

SECTION II – DEFINITIONS, L., 4. is deleted in its entirety and replaced with the following:

4. Any natural person who is a property manager or an employee of a property management company, but only for **claims** arising out of their **wrongful acts** while acting at the direction of the **named insured** or any **subsidiary** or arising out of the **wrongful acts** of the **insureds** for which the property management company's employees are vicariously liable.

All other provisions of the policy remain unchanged except as herein expressly modified.

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THE CINCINNATI INSURANCE COMPANIES

CAPITAL ENDORSEMENT™

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CAPITAL SCHEDULE OF COVERAGE LIMITS

Coverages:	Limit of Insurance:	Deductible:
A. Additional Excess Side A	$250,000	$0
B. Business Travel Benefit	$50,000	$0
C. Conference Cancellation	$25,000	$0
D. Crisis Management Emergency Response	$50,000	$0
E. Death Benefit	$50,000	$0
F. Destroyed Records	$25,000	$0
G. Donation Security	$50,000	$0
H. Emergency Real Estate Consulting Fee	$50,000	$0
I. Emergency Travel Expense	$50,000	$0
J. Fundraising Event Cancellation Expense	$25,000	$0
K. Identity Theft Expense	$50,000	$0
L. Image Restoration and Counseling Expense	$50,000	$0
M. Immigration	$25,000	$0
N. Key Individual Replacement Expense	$50,000	$0
O. Kidnap Expense	$50,000	$0
P. Political Unrest Evacuation Expense	$10,000 per employee $50,000 policy limit	$0
Q. Temporary Meeting Space Expense	$50,000	$0
R. Travel Delay Expense	$2,500	$0
S. Unauthorized Business Card Use	$1,500	$500
T. Workplace Violence Counseling Expense	$50,000	$0

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAPITAL ENDORSEMENT™

This endorsement modifies insurance provided under the following:

COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE
NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE

The insurance coverage and Limits of Insurance provided by this endorsement are excess of, and apply in addition to, any similar or identical coverage provided by any other endorsement attached to this Coverage Part, or by any other Coverage Part forming a part of the policy of insurance of which this Coverage Part forms a component.

For the purposes of this endorsement only, **COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE** or **NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE, SECTION II - DEFINITIONS** is amended to include the following:

A. **Business-related conference expense** means those expenses incurred by the **organization** for any employee(s) scheduled to attend a conference or convention provided that the employee(s) was (were) registered for the conference or convention at least 30 days prior to the conference's or convention's cancellation.

B. **Certified act of terrorism** means an act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a **certified act of terrorism** include the following:

1. The act resulted in **insured** losses in excess of $5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and

2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals, as part of an effort to coerce the civilian population of the United States or to influence the policy of affect the conduct of the United States Government by coercion.

C. **Communicable disease** means any disease or any related or resulting diseases, viruses, complexes, symptoms, manifestations, effects, conditions or illnesses, except this endorsement does not apply to any loss directly or indirectly attributable to Anthrax, Avian Influenza, Crimean-Congo Hemorrhagic Fever, Dengue Hemorrhagic Fever, Ebola Hemorrhagic Fever, Francisella Tularensis, Influenza, Lassa Fever, Marburg Hemorrhagic Fever, Meningococcal disease, Plague, Rift Valley Fever, Severe Acute Respiratory Syndrome, Smallpox, Tularemia, Yellow Fever or any pandemic or similar influenza which is defined by the United States Center for Disease Control as virulent human influenza that may cause global outbreak, or pandemic, or serious illness.

D. **Covered event** means an actual or alleged act, attempt or threat of sexual misconduct or sexual molestation directed at one or more of the **organization's** clients while in the **organization's** care, custody and control, committed by the **organization**, any of the **organization's** partners, directors, officers, employees, independent contractors or volunteers.

E. **Covered person** means:

1. Any current director, officer or an equivalent position of the **organization**; or

2. The spouse, **domestic partner**, parent, or child of a current director, officer or an equivalent position of the **organization**.

F. **Crisis** means the public announcement that an incident occurred on your premises or at an event sponsored by you.

G. **Crisis management emergency response expenses** mean those expenses incurred for services provided by a crisis management firm. However, crisis management emergency response expenses shall not include compensation, fees, benefits, overhead, charges or expenses of any **insured** or any of your

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employees, nor shall crisis management emergency response expenses include any expenses that are payable on your behalf or reimbursable to you under any other valid and collectible insurance.

H. Crisis management firm means any service provider the **organization** hire that is acceptable to us. Our consent will not be unreasonably withheld.

I. Emergency evacuation expense means:

1. Additional lodging expenses;
2. Additional transportation costs;
3. The cost of obtaining replacement of lost or stolen travel documents necessary for evacuation from the area of **political unrest**; and
4. Translation services, message transmittals and other communication expenses provided that these expenses are not otherwise reimbursable.

J. Emergency travel expense means:

1. Hotel expense incurred, and not reimbursed by any other source, as the result of the cancellation of scheduled transportation by a commercial transportation carrier for regular passenger service by land, water, or air. The cancellation must occur within forty-eight hours of a **certified act of terrorism**; and
2. The increased amount incurred and not reimbursed by any other source for air or train fare resulting from cancelling and rescheduling a form of transportation to replace a similarly scheduled form of transportation canceled by a commercial transportation carrier.

K. Failed donation means notice to the **insured** during the **policy year** of:

1. The bankruptcy or reorganization of any donor whereby such bankruptcy or reorganization prevents the donor from honoring a written pledge, made during the **policy year**, of funds or other measurable, tangible property to the **organization** provided that the donor has never been in bankruptcy or filed for bankruptcy/reorganization prior to the time the donor's pledge was made to the **organization**; or
2. The unemployment or **incapacitation** of an individual donor during the **policy year** preventing the donor from honoring a prior written pledge of funds or other measurable, tangible property to the **insured** provided that, if the donor is an individual who becomes unemployed or **incapacitated**:
   a. Neither the **organization** nor the donor shall have had reason to believe the donor would become unemployed or **incapacitated** prior to the donation date;
   b. The individual donor is unemployed or **incapacitated** for at least 60 days before payment is made by the Company; and
   c. There is a written pledge of funds or other measurable, tangible property dated during the **policy year**.

L. Identity theft means the act of knowingly transferring or using, without lawful authority, a means of identification of any director, officer or an equivalent position (or spouse or **domestic partner** thereof) of the **organization** with the intent to commit, or to aid or abet another to commit, any unlawful activity that constitutes a violation of federal law or a felony under any applicable state or local law.

M. Identity theft expenses mean:

1. Costs for notarizing affidavits or similar documents attesting to fraud required by financial institutions or similar credit grantors or credit agencies;
2. Costs for certified mail to law enforcement agencies, credit agencies, financial institutions or similar credit grantors; and
3. Loan application fees for re-applying for a loan or loans when the original application is rejected solely because the lender received incorrect credit information.

N. Image restoration and counseling expense means reasonable fees and expenses the **organization** necessarily incur after a **covered event** occurs for:

1. The services of a public relations or similar professional image restoration **organization** to assist or advise the **organization** in order to minimize negative publicity and restore or otherwise positively communicate the image of the **organization's** operations.

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2. Legal counseling and professional psychological counseling or other necessary professional mental health treatment for **insured persons** as a result of a **covered event**. These **image restoration and counseling expenses** are payable only if and when the accused is acquitted or is discharged from being accused of committing the **covered event**.

3. The recruitment of a replacement for an officer who has been relieved of their duties in the **organization's** operations as a result of the **covered event**.

O. Incapacitated or incapacitation means a person who is impaired by physical injury, physical illness, or physical disability. The cause of the physical injury, physical illness or physical disability must be accidental.

P. Incident means an accident or other event resulting in death or serious bodily injury to three or more persons. **Incident** shall also mean the accidental discharge of pollutants.

Q. Injury means:

1. Accidental loss of life caused by physical injury to the body;

2. Accidental loss of limbs or multiple fingers; or

3. Accidental total loss of sight, speech or hearing.

The **injury** outlined in Paragraphs **1.**, **2.**, and **3.** above must physically occur to the current director, officer or an equivalent position.

R. Kidnap, **kidnapped**, or **kidnapping** means the illegal taking and holding of a **covered person** by an individual who demands a **ransom**. The **ransom** must specifically be demanded from the **organization's** assets as a condition for the release of the **covered person**.

S. Kidnap expense means:

1. Fees and expenses of an independent negotiator the **organization** have hired with our prior approval;

2. Incurred interest of loans taken for the purpose of paying **ransom**, provided that the loan is repaid within seven days of the **insured** receiving reimbursement from us;

3. Travel and accommodation expenses incurred by any current director, officer or an equivalent position of the **organization**;

4. Reward paid by the **insured**, with our prior approval, to an informant for information which leads to the arrest and conviction of parties responsible for a **kidnapping**, provided that the offer of such reward is approved by the local law enforcement officials; and

5. Gross salary including bonuses and allowances paid by the **organization** to its **kidnapped** director, officer or an equivalent position which is contractually due at the time the **kidnapping** occurs. The salary will be paid for a period beginning on the date of the **kidnap** and will end upon the earlier of:

   a. Up to 30 days after the release of the director, officer or an equivalent position, if the director, officer or an equivalent position has not yet returned to work;

   b. The discovery of the death of the director, officer or an equivalent position;

   c. 120 days after we receive the last credible evidence following the **kidnapping** that the director, officer or an equivalent position is still alive;

   d. 12 months after the date of the **kidnapping**; or

   e. The exhaustion of the kidnap expense limit.

T. Natural catastrophe means hurricane, tornado, earthquake or flood.

U. Political unrest means:

1. A short-term condition of disturbance, turmoil or agitation within a foreign country that poses imminent risks to the security of citizens of the United States;

2. A long-term condition of disturbance, turmoil or agitation that makes a foreign country dangerous or unstable for citizens of the United States; or

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3. A condition of disturbance, turmoil or agitation in a foreign country that constrains the United States government's ability to assist citizens of the United States, due to the closure or inaccessibility of an embassy or consulate or because of a reduction of its staff for which either an alert or travel warning has been issued by the United States Department of State.

V. **Ransom** means money or other consideration demanded or paid for the release of a **covered person.**

W. **Replacement expense** means:

1. Costs of advertising the employment position opening;
2. Travel, lodging, and meals incurred in interviewing job applicants for the position opening; and
3. Reasonable extra expenses incurred with our prior consent in finding, interviewing and negotiating with the job applicants including, but not limited to, overtime pay, costs to verify the background and references of the applicants and legal expenses incurred to draw up employment contracts.

X. **Travel delay expense** means the following travel-related expense for which the director, officer or an equivalent position of the **organization** produces a receipt:

1. Meals and lodging;
2. Alternative transportation;
3. Clothing and necessary toiletries; or
4. Emergency prescription and non-prescription drug expenses.

Y. **Workplace violence** means any intentional use of or threat to use deadly force by any person with intent to cause harm and that results in bodily injury or death of any person while on the **insured's** premises.

Z. **Unforeseeable Destruction** means damage resulting from a **Certified Act of Terrorism**, fire, crash or collapse which renders all of the **insured's** primary office completely unusable.

For the purposes of this endorsement only, **COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE** or **NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE** is amended to include the following section:

COVERAGE EXTENSIONS

A. Additional Excess Side A

We will provide the **insured persons** with an excess limit of insurance under **COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE** or **NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE, SECTION I** - Insuring Agreement **A.** The limit provided under this coverage extension shall be excess of the Excess Side A Limit of Insurance (if purchased) and the Limit of Insurance as indicated on the Nonprofit Organization Directors and Officers Liability Coverage Part Declarations or Community Association Directors and Officers Liability Coverage Part Declarations. The limit of insurance applies solely to **loss** resulting from any **claim** against an **insured person** to which Insuring Agreement **A.** is applicable.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

B. Business Travel Benefit

1. We will pay the **organization** the business travel benefit if any current director, officer or an equivalent position while occupying, as a fare-paying passenger, a public conveyance provided and operated by a commercial transportation carrier for regular passenger service by land, water, or air suffers **injury** while traveling for purposes related to the business of the **organization** during the **policy year**.
2. We will not pay business travel benefit for **injury** caused directly or indirectly by any of the following:
   a. An intentional injury by the director, officer or an equivalent position or decedent;
   b. An act of suicide or attempted suicide by the director, officer or an equivalent position or decedent;
   c. An act of war; or

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d. A disease process the director, officer or an equivalent position or decedent was diagnosed with prior to the suffered **injury** for which coverage under this Coverage Extension is sought.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

C. Conference Cancellation

We will reimburse the **organization** for any **business-related conference expense** incurred and not reimbursed by any other source as the result of a cancellation of a conference or convention. The cancellation must be the direct result of an order made by a civil authority responding to a **natural catastrophe** or to a **communicable disease** outbreak during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

D. Crisis Management Emergency Response Expenses

1. We will reimburse the **organization** for reasonable **crisis management emergency response expenses** incurred because of an **incident** giving rise to a **crisis** to which this insurance applies.
2. We will reimburse only those reasonable **crisis management emergency response expenses** which are incurred during the **policy year** and reported to us within six months of the date the **crisis** was initiated.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

E. Death Benefit

We will reimburse the **organization** for the death of a current director, officer or an equivalent position resulting from a **certified act of terrorism** occurring during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

F. Destroyed Records

We will reimburse the **organization** for any reasonable and necessary expenses required to reconstruct paper or electronic business records of the **organization** that are lost or destroyed resulting from a **natural catastrophe** or a **Certified Act of Terrorism** occurring during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage Limits. No deductible applies to this coverage extension.

G. Donation Security

1. We will reimburse the **organization** for a **failed donation** incurred and not reimbursed by any other source.
2. For non-cash donations, the value of the **failed donation** will be determined based on the fair market value of the non-cash item at the time of the **failed donation**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

H. Emergency Real Estate Consulting Fee

We will reimburse the **organization** any realtor's fee or real estate consultant's fee necessitated by the need of the **organization** to relocate due to the **unforeseeable destruction** of the principal address of the **organization** listed on the Pillar Common Policy Declarations page during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

I. Emergency Travel Expense

We will reimburse the **organization** reasonable **emergency travel expense**, while traveling for purposes related to their business pursuits during the **policy year**, incurred by the current director, officer or an equivalent position and necessitated by a **certified act of terrorism** which:

1. Occurs during the **policy year**; or

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2. Begins to occur during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

J. Fundraising Event Cancellation Expense

We will reimburse the **organization** for fundraising event related expense incurred, and not reimbursed by any other source, due to the cancellation of a fundraising event. However:

1. The canceled fundraising event must not be rescheduled within the **policy year**; and
2. The fundraising event cancellation must be the direct result of an order made by a civil authority responding to a **natural catastrophe** or a **communicable disease** outbreak during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

K. Identity Theft Expense

We will reimburse any current director, officer or an equivalent position of the **organization** for **identity theft expenses** incurred as the direct result of any **identity theft** first discovered and reported during the policy period; provided that it began to occur subsequent to the effective date of this coverage extension or any similar coverage extension issued by us of which this coverage is a direct renewal.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

L. Image Restoration and Counseling Expense

We will pay the **organization** any **image restoration and counseling expense** resulting from a **covered event** that occurs during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

M. Immigration

We will reimburse the **organization** for any civil fines or penalties assessed against the **insured** for any non-willful violation of the United States Immigration and Nationality Act (INA) provided that such violation results from a notice of inspection, audit or investigation by a governmental agency commenced during the **policy year**. However, no coverage shall be granted to any **insured**:

1. against whom a final judgement has been made that such **insured** knowingly and willfully violated the INA or engaged in a pattern and practice of such violation as defined in INA; or
2. for any forfeiture of property or vehicles or any amount arising out of or related to any private right of action (Racketeer Influenced and Corrupt Organizations Act, injunctive or otherwise) under Title 8, USC, including any defense costs.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

N. Key Individual Replacement Expense

We will pay the reasonable **replacement expense** incurred, and not reimbursed by any other source, to replace the Chief Executive Officer or the Executive Director of the **organization** if the incumbent Chief Executive Officer or Executive Director of the **organization** is unable to continue due to death or permanent disability resulting from an **injury** that takes place during the **policy year**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

O. Kidnap Expense

We will pay the reasonable **kidnap expense** incurred by the **organization** or their current director, officer or an equivalent position as a result of the **kidnap** of a **covered person** that takes place during the **policy year**.

This coverage does not apply to any **kidnapping** by or at the direction of any past or present family member of the **covered person**.

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The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

P. Political Unrest Evacuation Expense

We will reimburse any current director, officer, employee or volunteer of the **organization** for **emergency evacuation expense** that is incurred as the direct result of **political unrest** outside of the United States of America, its territories and possessions, Puerto Rico or Canada. We will only pay **emergency evacuation expense** directly related to traveling for business pursuits and we will only pay **emergency evacuation expenses** not reimbursed by any other source. The **political unrest** must occur in the country where the current director, officer, employee or volunteer are traveling, and the **political unrest** must occur during the **policy year**.

No coverage is granted for travel to countries in a state of **political unrest** at the time of departure of the travel or countries under a United States Department of State trade or travel restriction at the time of incident of **political unrest**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

Q. Temporary Meeting Space Expense

We will reimburse the **organization** the meeting space rental expense incurred, and not reimbursed by any other source, due to the temporary unavailability of the primary meeting office space. The unavailability of the primary meeting space must be the result of direct loss to a climate control system or hot water heater during the **policy year**. However, Temporary Meeting Space Expense does not apply to the renting of a temporary meeting space solely for use by the **organization**, their employees, their officers or directors unless the temporary meeting space is also required for meeting with vendors, clients or customers outside the **organization**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

R. Travel Delay Expense

We will reimburse the current director, officer or an equivalent position of the **organization** any **travel delay expense** incurred, and not reimbursed by any other source, as a result of delay or cancellation of any regularly scheduled travel on a commercial transportation carrier. The regularly scheduled travel must be directly related to the business pursuits of the **organization** and the cause of the cancellation must occur during the **policy year**. However, we will only pay for **travel delay expense** first incurred seventy-two (72) hours after the cancellation occurred.

We will not pay for **travel delay expense** due to a **certified act of terrorism**.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

S. Unauthorized Business Card Use

We will pay for the loss of money or charges and costs the **organization** incur that result directly from the unauthorized use of credit, debit or charge cards issued in the business name, including:

1. Fund transfer cards;
2. Charge plates; or
3. Telephone cards.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. A $500 deductible applies to this coverage extension. We will not pay for a loss in any one occurrence until the amount of the loss exceeds the deductible. We will then pay the amount of the loss in excess of the deductible, up to the Limit of Insurance.

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T. Workplace Violence Counseling Expense

We will reimburse the **organization** for emotional counseling expense incurred and not reimbursed by any other source resulting from a **workplace violence** incident at the premises of the **organization** during the **policy year**. The emotional counseling expenses incurred must have been for:

1. The employees of the **organization** who were victims of or witnesses to the **workplace violence**;
2. The spouse, **domestic partner,** parents or children of the employees of the **organization** who were victims of, or witnesses to the **workplace violence**; and
3. Any other person or persons who directly witnessed the **workplace violence** incident.

The most we will pay under this coverage extension in any one **policy year** is the Limit of Insurance indicated in the Capital Schedule of Coverage. No deductible applies to this coverage extension.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDED CYBER EXCLUSION

This endorsement modifies insurance provided under the following:

COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE
EDUCATORS LEGAL LIABILITY COVERAGE
FINANCIAL INSTITUTIONS DIRECTORS AND OFFICERS LIABILITY COVERAGE
NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE
PRIVATELY HELD COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE
PUBLICLY TRADED COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE

SECTION III – EXCLUSIONS, D. is deleted in its entirety and replaced with the following:

D. Cyber

We are not liable to pay, indemnify or defend any **claim** for any actual or alleged:

1. Improper dissemination of personally identifiable information or protected health information or any violation of European Union General Data Protection Regulation, the California Consumer Privacy Act or any rules, regulations or orders promulgated thereunder or any similar provisions of any federal, state or local statutory or common law;
2. Liability of any **insured** for the transmission of malicious code or unauthorized access to any computer system; or use of the **organization's** computer system in a denial of service attack against a third party's computer system; or a denial of authorized electronic access to any computer system; or the disclosure or misappropriation of information that is subject to any form of confidentiality agreement or confidentiality provision in a contract or agreement between a third party and any **insured** or which the **insured** is legally required to maintain in confidence;
3. Liability of any **insured** for a failure to maintain adequate security controls to prevent a data breach or infiltration of the **insured's** computer system, including but not limited to ransomware and extortion;
4. Liability of any **insured** arising out of internet and electronic services which are performed for or on behalf of any client or customer of the **organization** through the transmission of electronic data to or from the **organization's** internet website or through a private computer network controlled by the **organization**;
5. Liability of any **insured** for internet professional services the **organization** provides to others which may include, but are not limited to, application service provider, domain name registration services, electronic exchange and auction services, internet hosting services, internet media services, internet service provider service, managed and network security services, public key infrastructure services, search engine services, web portal services, website development, software development and internet access provider; or
6. Liability of any **insured** for an intentional transfer of money, securities, goods, services or sensitive information to an unintended third party;

provided, however, that this exclusion shall not apply to any **claim** to which Insuring Agreement **A.** solely applies.

All other provisions of the policy remain unchanged except as herein expressly modified.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BIOMETRIC INFORMATION PRIVACY EXCLUSION

This endorsement modifies insurance provided under the following:

COMMUNITY ASSOCIATION DIRECTORS AND OFFICERS LIABILITY COVERAGE
EDUCATORS LEGAL LIABILITY COVERAGE
FINANCIAL INSTITUTIONS DIRECTORS AND OFFICERS LIABILITY COVERAGE
HEALTHCARE INSTITUTIONS DIRECTORS AND OFFICERS LIABILITY COVERAGE
NONPROFIT ORGANIZATION DIRECTORS AND OFFICERS LIABILITY COVERAGE
PRIVATELY HELD COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE
PUBLICLY TRADED COMPANY DIRECTORS AND OFFICERS LIABILITY COVERAGE

A. SECTION II - DEFINITIONS is amended to include the following:

Biometric information means any:

a. Biometric identifier including a retina or iris scan, fingerprint, voiceprint, scan of hand or face geometry, or any other personally identifiable measurable biological characteristic of an individual; or

b. Biometric information including any information, regardless of how it is captured, converted, stored or shared, based on an individual's biometric identifier used to identify an individual.

Biometric information privacy claim means a **claim** brought or maintained against an **insured** for a violation of any federal, state or local law that regulates or restricts the collection, storage, use and/or disposal of **biometric information**, including violations of any required notifications, disclosures, sale or authorizations related to such **biometric information**.

B. SECTION III - EXCLUSIONS is amended to include the following:

Biometric Information Privacy

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged **biometric information privacy claim.**

All other provisions of the policy remain unchanged except as herein expressly modified.

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The Cincinnati Insurance Company

A Stock Insurance Company

EMPLOYMENT PRACTICES LIABILITY COVERAGE PART DECLARATIONS

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

Policy Number: EMO 069 81 50

Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

Limit of Insurance:	$ 1,000,000	in the aggregate
Optional Third Party Liability Sublimit	$ 1,000,000	in the aggregate
Wage and Hour Defense Sublimit	$ 100,000	in the aggregate
Immigration Defense Sublimit	$ 100,000	in the aggregate
Additional Defense Limit of Insurance:	$ UNLIMITED	in the aggregate

Deductibles:	$ 5,000	each **claim** under Insuring Agreement **A** (Employment Practices)
	$ 5,000	each **claim** under Insuring Agreement **B** (Third Party)

Retroactive Date:	N/A
Prior or Pending Date:	05-10-2013
Continuity Date:	05-10-2013

Forms and endorsements applicable to this coverage part:

ML112	01/18	EMPLOYMENT PRACTICES LIABILITY COVERAGE
IA450B	11/87	INCLUDE PROPERTY MANAGER AS INSURED
ML361	01/21	BIOMETRIC INFORMATION PRIVACY EXCLUSION
ML4224	01/21	EMPLOYEE PRIVACY VIOLATION ENDORSEMENT

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EMPLOYMENT PRACTICES LIABILITY COVERAGE

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EMPLOYMENT PRACTICES LIABILITY COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. TO THE EXTENT IT IS NOT OTHERWISE INDICATED, THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

SECTION I - INSURING AGREEMENTS

A. We will pay on behalf of the **insureds** all **loss** which they shall be legally obligated to pay resulting from any **employment claim** or **immigration claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for an **employment wrongful act** or **immigration wrongful act**.

B. If Optional Third Party Liability is purchased as set forth in the Employment Practices Liability Coverage Part Declarations, we will pay on behalf of the **insureds** all **loss** which they shall be legally obligated to pay resulting from any **third party claim** first made during the **policy period**, or any **extended reporting period** included in or endorsed to the policy, for a **third party wrongful act**.

We will have the right and duty to select counsel and defend the **insureds** against any such **claim**.

SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

A. **Benefits** means perquisites, fringe benefits, payments in connection with an employee benefit plan and any other payment, other than salary, wages or commissions to or for the benefit of an **employee** arising out of the employment relationship.

B. **Claim** means an **employment claim,** an **immigration claim** or a **third party claim**.

C. **Defense costs** means reasonable and necessary fees, costs, and expenses incurred by us or with our consent on behalf of the **insureds** or reimbursed to any of the **insureds** by us, resulting solely from the investigation, adjustment, defense and appeal of any **claim**. **Defense costs** includes, but is not limited to, the cost of expert consultants and witnesses, and premiums for appeal, injunction, attachment or supersedeas bonds (but not the obligation to furnish such bonds).

Defense costs shall not include:

1. Salaries, wages, fees, overhead or expenses of our employees or any **insureds**, directors, officers, trustees or employees, other than that portion of our employed attorneys' fees, salaries and expenses allocated to a specific **claim**;
2. Any amount covered by the duty to defend obligation of any other insurer; or
3. Any pre-tender fees, costs or expenses.

D. **Employee** includes, but is not limited to, full-time, part-time, seasonal, volunteer, contingent or leased workers as determined by the federal, state or local law. **Employee** does not include independent contractors as determined by federal, state or local law.

E. **Employment claim** means:

1. A written demand for monetary damages or non-monetary relief;
2. A civil proceeding commenced by the filing of a complaint or similar pleading;
3. A formal administrative or regulatory proceeding commenced by the filing of a complaint, charge, formal investigative order or similar document;
4. An arbitration, mediation or similar alternative dispute resolution proceeding (other than a labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement) if the **insured** is required or agrees to participate in such proceeding with our written consent;

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5. In the context of an audit conducted by the Office of Federal Contract Compliance Programs, a Notice of Violation or Order to Show Cause or written demand for monetary or non-monetary relief, commenced by the receipt by an **insured** of such Notice, Order or written demand; or

6. A written request to toll or waive a statute of limitations relating to a potential **employment claim** described in Definitions **E.1.** through **E.5.** above;

which is brought by or on behalf of any past, present or prospective **employee(s)** of the **organization** against any of the **insureds**, including any appeal therefrom.

F. **Employment wrongful act** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty committed for:

1. Wrongful discharge, dismissal or termination of employment, including constructive discharge;
2. Breach of any oral, written or implied employment contract or quasi-employment contract other than any labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement;
3. Employment related misrepresentation;
4. Violation of any federal, state or local law that concerns employment discrimination:
   a. Including:
      1. Sexual harassment involving unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature; or
      2. Workplace bullying or workplace harassment of a non-sexual nature;
   b. That:
      1. Are made a condition of employment;
      2. Are used as a basis for employment decisions; or
      3. Create a work environment that is intimidating, offensive, hostile or interferes with performance;
5. Wrongful failure to employ or promote;
6. Wrongful demotion;
7. Wrongful discipline;
8. Wrongful deprivation of a career opportunity;
9. Negligent hiring, supervision, promotion or retention;
10. Negligent evaluation;
11. Employment related **personal injury**;
12. Wrongful failure to grant tenure;
13. Employment related wrongful infliction of emotional distress;
14. Violation of the Family Medical Leave Act;
15. Wrongful **retaliation**;
16. Wrongful denial of training, denial or deprivation of seniority or evaluation;
17. Failure to adopt, create, provide or enforce adequate workplace or employment practices and procedures; or
18. Wrongful handling of any background check which is issued or expected to be used or collected in whole or in part for the purpose of serving as a factor in any employment related activities, including but not limited to any violation of the Fair Credit Reporting Act;

including any actual or alleged assault, battery, or loss of consortium in connection with Subparagraphs **1.** through **18.** above.

G. **Executive** means any natural person who was, now is or shall become the chairperson, president, chief executive officer, chief financial officer, executive director, in-house general counsel or person of equivalent position to any of the foregoing of the **organization**.

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H. **Immigration claim** means any criminal investigation of any **insured** by any governmental agency for any actual or alleged hiring of illegal aliens.

I. **Immigration wrongful act** means any actual or alleged violation of the Immigration Reform and Control Act of 1986 or any amendments to or rules, regulations or orders promulgated pursuant to it, or similar provisions of any federal, state, or local statutory or common law.

J. **Insured** means the **organization** and the **insured persons**.

K. **Insured persons** means:

1. All natural persons who were, now are, or shall become an officer or a duly elected or appointed member of the board of directors, trustees, regents, managers, governors, a **LLC manager** or an equivalent position of the **organization**;

2. All natural persons who were, now are, or shall become an **employee** or committee member, whether or not they were, are or shall be compensated, of the **organization**;

3. All natural persons who were, now are, or shall become members or volunteers of the **organization**, if the **organization** is nonprofit in nature, while acting on behalf of the **organization** in a voluntary capacity at the direction of the board of directors, trustees, regents, managers, governors, or an equivalent position; and

4. Any natural person who is an independent contractor as determined by federal, state or local law, but only while acting in the capacity as such for the **organization** pursuant to an express written agreement between the independent contractor, or any entity on behalf of the independent contractor, and the **organization** and only if the **organization** agrees in writing to provide indemnification to such independent contractor; provided, however, that any coverage under this Coverage Part for any such independent contractor shall be excess of any indemnification or insurance otherwise available to such independent contractor from any other source;

but only for acts with respect to their duties for or service to the **organization**.

L. **LLC manager** means any natural person who was, now is or shall become a manager, member of the board of managers or member of the **organization** that is a limited liability company but only with respect to the conduct of the limited liability company's business. However, any member of a limited liability company who is a passive investor not involved in the operations of the limited liability company is not a **LLC manager.**

M. **Loss** means **defense costs** and the total amount of monetary damages which the **insured** becomes legally obligated to pay on account of any **claim** for a **wrongful act** with respect to which coverage hereunder applies, including damages (including back pay and front pay), judgments, settlements, prejudgment and postjudgment interest, and punitive or exemplary damages or the multiplied portion of any multiplied damage award if insurable under the applicable law most favorable to the insurability of punitive, exemplary or multiplied damages.

Loss shall not include any amount for which an **insured** is not financially liable, compensation earned in the course of employment but not paid by an **insured** or matters which are deemed uninsurable under the law pursuant to which this Coverage Part shall be construed.

Loss shall not include, (other than **defense costs**):

1. **Benefits** or the equivalent value, however, this provision does not apply to **loss** resulting solely from wrongful termination of employment;

2. Amounts, which arise out of, are based upon, or are attributable to the employment reinstatement of the claimant by an **insured** or the continued employment of the claimant;

3. Future compensation, including salary or **benefits** for an **employee**, if the **insured** is ordered in accordance with a judgment or other final adjudication but fails to reinstate the claimant as an **employee;**

4. That part of any express contract of employment or an express obligation to make payments in the event of the termination of employment;

5. Salary, wages, commissions, **benefits** or other monetary payments which constitute severance payments or payments pursuant to a notice period;

6. Civil or criminal fines or penalties imposed by law, liquidated damages (other than liquidated damages awarded under the Age Discrimination in Employment Act or the Equal Pay Act), payroll or other taxes, or damages, penalties or types of relief deemed uninsurable under applicable law;

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7. Future compensation, including salary or **benefits** for an **employee** who has been or will be hired, promoted or reinstated to employment pursuant to a settlement, court order, judgment, award or other resolution of a **claim**; or

8. Medical, pension, disability, life insurance, stock option or other **employee** type **benefit**.

N. **Organization** means the **named insured** and any **subsidiary**.

O. **Personal injury** means injury, other than bodily injury, arising out of one or more of the following offenses:

1. False arrest, detention or imprisonment;

2. Oral or written publication of material that libels, slanders or defames a past, present or prospective **employee**;

3. Invasion of a past, present or prospective **employee's** right of privacy;

4. Malicious prosecution; or

5. Abuse of process.

P. **Property damage** means:

1. Injury or damage, of any nature, to tangible or intangible property, including all resulting loss of use of that property; or

2. Loss of or loss of use of tangible or intangible property that is not otherwise injured or damaged.

Q. **Retaliation** means any actual or alleged wrongful termination of employment or other adverse employment action against a claimant with respect to any person's exercise or attempted exercise of rights protected by law, refusal to violate any law, disclosure or threat of disclosure to a superior or to any governmental agency actual or alleged violations of the law, or having assisted or testified in or cooperated with a proceeding or investigation regarding alleged violations of law.

R. **Third party** means any natural person who is not an **employee** of the **organization**.

S. **Third party claim** means:

1. A written demand for monetary damages or non-monetary relief;

2. A civil proceeding commenced by the filing of a complaint or similar pleading;

3. A formal administrative or regulatory proceeding commenced by the filing of a complaint, charge, formal investigative order or similar document;

4. An arbitration, mediation or similar alternative dispute resolution proceeding (other than a labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement) if the **insured** is required or agrees to participate in such proceeding with our written consent; or

5. A written request to toll or waive a statute of limitations relating to a potential **third party claim** described in Definitions **S.1.** through **S.4.** above;

which is brought by or on behalf of any **third party** against any of the **insureds**, including any appeal therefrom.

T. **Third party wrongful act** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect or breach of duty committed, attempted or allegedly committed or attempted on or after the Retroactive Date, if any, set forth in the Employment Practices Liability Coverage Part Declarations and prior to the end of the **policy period** by an **insured** or any person for whose acts the **insured** is legally liable for:

1. Discrimination by any **insured** against a **third party** in violation of any applicable federal, state or local statute, ordinance or common law;

2. Sexual or other harassment by any **insured**, including unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature against a **third party** which violates the civil rights of the **third party**; or

3. **Wrongful eviction** when arising out of discrimination or harassment by any **insured** against a **third party** in violation of any applicable federal, state or local statute, ordinance or common law.

U. **Wrongful act** means an **employment wrongful act**, an **immigration wrongful act** or a **third party wrongful act** attempted or allegedly committed or attempted on or after the Retroactive Date, if any, set

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forth in the Employment Practices Liability Coverage Part Declarations and prior to the end of the **policy period** by an **insured** or any person for whose acts the **organization** is legally liable.

V. **Wrongful eviction** means the act of dispossessing or attempting to dispossess a **third party** of real property to which such **third party** claims a right to occupy, and such real property is owned, operated or controlled by the **organization**.

SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

A. Exclusions applicable to **loss** other than **defense costs**:

1. Americans With Disabilities Act

   This insurance does not apply to **loss** incurred by the **insured** in making physical changes, modifications, alterations, or improvements as part of an accommodation pursuant to the Americans With Disabilities Act or similar provisions of any federal, state or local statutory or common law; provided, however, that this exclusion does not apply to **defense costs**.

2. Wage and Hour (with Defense Sublimit)

   This insurance does not apply to any **claim** based upon, arising out of or in consequence of the Fair Labor Standards Act (except the Equal Pay Act) or any amendments to or rules, regulations or orders promulgated pursuant to it, or similar provisions of any federal, state, or local statutory or common law; except we shall reimburse the **insureds** for up to a maximum payment of the Wage and Hour Defense Sublimit set forth in the Employment Practices Liability Coverage Part Declarations in **defense costs** that exceed the Deductible amount as set forth in the Employment Practices Liability Coverage Part Declarations. Any payment of **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations and such payment reduces the Limit of Insurance. However, this exclusion shall not apply to an **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged violation of the Fair Labor Standards Act by any **insured**.

3. Immigration (with Defense Sublimit)

   This insurance does not apply to any **immigration claim** except we shall reimburse the **insureds** for up to a maximum payment of the Immigration Claim Defense Sublimit set forth in the Employment Practices Liability Coverage Part Declarations in **defense costs** that exceed the Deductible amount as set forth in the Employment Practices Liability Coverage Part Declarations. Any payment of **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations and such payment reduces the Limit of Insurance. However, this exclusion shall not apply to an **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged violation of the Immigration Reform and Control Act of 1986 by any **insured**.

B. Exclusions applicable to all **loss**:

1. Bodily Injury/Property Damage

   We are not liable to pay, indemnify or defend any **claim** for actual or alleged:

   a. Bodily injury, sickness, disease, or death of any person; or

   b. **Property damage**, including, but not limited to, physical injury, loss of or loss of use of currency or any negotiable or non-negotiable instruments or contracts representing money.

2. COBRA, ERISA, NLRA, OSHA and WARN (with Retaliation Carve Back)

   This insurance does not apply to any **claim** based upon, arising out of or in consequence of the:

   a. Consolidated Omnibus Budget Reconciliation Act of 1985;

   b. Employee Retirement Income Security Act of 1974 (except Section 510 thereof);

   c. National Labor Relations Act (including the Labor Management Relations Act of 1947);

   d. Occupational Safety and Health Act;

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e. Worker Adjustment and Retraining Notification Act; or

any amendments to or rules, regulations or orders promulgated pursuant to these laws, or similar provisions of any federal, state, or local statutory or common law. However, this exclusion shall not apply to any **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged violation of the acts described in **B.2.a.** through **B.2.e.** above by any **insured**.

3. Contractual (Other than Employment Contract)

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged liability of any **insureds** under the terms, conditions or warranties of any oral or written contract or agreement, except:

a. To the extent the liability would have attached to any such **insureds** in the absence thereof; or

b. With respect to any **claim** for breach of an employment contract.

4. Labor Relations

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged:

a. Labor or grievance arbitration or other proceeding pursuant to a collective bargaining agreement; or

b. **Wrongful act** committed, attempted, or allegedly committed or attempted concurrent with or after a lockout, strike, picket line, replacement or other similar actions resulting from labor disputes or labor negotiations.

5. Workers' Compensation, Unemployment, Social Security and Disability (with Retaliation Carve Back)

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged obligation of any **insured** under any workers' compensation, unemployment insurance, social security, disability benefits or similar law, or derivative actions arising out of any of these. However, this exclusion shall not apply to any **employment claim** for retaliatory treatment by an **insured** due to the exercise of rights granted under any such law.

SECTION IV - SEVERABILITY OF EXCLUSIONS

With respect to determining the applicability of the above exclusions, no **wrongful act** or knowledge possessed by any one of the **insureds** shall be imputed to any other **insureds** to determine if coverage is available, unless indicated otherwise.

SECTION V - LIMIT OF INSURANCE AND DEDUCTIBLE

A. The Limits of Insurance shown in the Employment Practices Liability Coverage Part Declarations and the rules below fix the most we will pay regardless of the number of:

1. **Insureds** under this Coverage Part;
2. **Claims** made or suits brought on account of **wrongful acts** or otherwise; or
3. Persons or organizations making **claims** or bringing suits.

B. Our liability shall apply only to that part of each covered **loss** which is excess of the Deductible amount specified in the Employment Practices Liability Coverage Part Declarations and such Deductible amount shall be borne by the **insureds**.

C. **Defense costs** incurred by us or by the **insured** with our written consent are part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations and the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations. **Defense costs** we pay shall reduce such Limits of Insurance. **Defense costs** paid by the **insureds** shall be applied against the Deductible.

D. Our maximum aggregate liability for all **loss** resulting from all **claims** under this Coverage Part shall be the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations, subject to the Shared Annual Aggregate Limit of Liability, if so set forth in the Common Policy Declarations.

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E. If an Additional Defense Limit of Insurance is set forth in the Employment Practices Liability Coverage Part Declarations, **defense costs** will apply first to and reduce the Additional Defense Limit of Insurance. The Additional Defense Limit of Insurance will be in addition to, and not part of the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations. The Additional Defense Limit of Liability is applicable to **defense costs** only. **Defense costs** paid by the **insureds** shall be applied against the Deductible.

Upon exhaustion of the Additional Defense Limit of Insurance, **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations. **Defense costs** we pay shall reduce the Limit of Insurance.

SECTION VI - DEFENSE, INVESTIGATION AND SETTLEMENT

A. We will have the right and duty to select counsel and defend the **insureds** against any **claim**; however, we will have no duty to defend the **insureds** against any **claim** to which this insurance does not apply.

B. We may make any investigation we deem necessary and may, with the consent of the **insureds** named in connection with the **claim**, make any settlement of any **claim** we deem expedient. If the **insureds** withhold consent to such settlement, our liability for all **loss** in connection with such **claim** shall not exceed:

1. The amount of the proposed settlement plus **defense costs** incurred up to the date of the **insured's** refusal to consent to the proposed settlement; plus
2. 90% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 90% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement, subject in all events to the applicable Limit of Insurance and Deductible for such **claim**. The remaining 10% of any settlement or judgment in excess of the proposed settlement amount referenced in **B.1.** above plus 10% of any **defense costs** incurred after the date the **insureds** refused to consent to the proposed settlement shall be borne by the **insureds**, uninsured and at their own risk.

C. Our right and duty to defend end when we have used up the applicable Limit of Insurance in the defense or payment of damages, judgments or settlements of covered **claims**.

SECTION VII - SUPPLEMENTARY PAYMENTS

We will pay with respect to any **claim** we defend:

A. The cost of any appeal bond, attachment bond, or any similar bond, but only for bond amounts within the applicable Limit of Insurance; provided, however, that we do not have to apply for or furnish these bonds; and

B. All reasonable expenses incurred by the **insured** at our request to assist us in the investigation or defense of the **claim**, including actual loss of earnings up to $250 a day because of time off from work.

These payments will not reduce the Limits of Insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INCLUDE PROPERTY MANAGER AS INSURED

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY COVERAGE

A. **SECTION II - DEFINITIONS, K. insured person** is amended to add the following:

Insured persons also means any natural person who is a property manager or an employee of a property management company, but only for **claims** arising out of their **wrongful acts** while acting at the direction of the **named insured** or any **subsidiary** or arising out of the **wrongful acts** of the **insureds** for which the property management company's employees are vicariously liable.

B. **SECTION II - DEFINITIONS, N.** is deleted in its entirety and replaced by the following:

N. **Organization** means:

1. The **named insured**;
2. Any **subsidiary**; and
3. A property management company, but only for claims arising out of its **wrongful acts** while acting at the direction of the **named insured** or any **subsidiary** or arising out of the **wrongful acts** of the **insureds** for which the property management company is vicariously liable.

All other provisions of the policy remain unchanged except as herein expressly modified.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BIOMETRIC INFORMATION PRIVACY EXCLUSION

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY COVERAGE

A. SECTION II - DEFINITIONS is amended to include the following:

Biometric information means any:

a. Biometric identifier including a retina or iris scan, fingerprint, voiceprint, scan of hand or face geometry, or any other personally identifiable measurable biological characteristic of an individual; or

b. Biometric information including any information, regardless of how it is captured, converted, stored or shared, based on an individual's biometric identifier used to identify an individual.

Biometric information privacy claim means a **claim** brought or maintained against an **insured** for a violation of any federal, state or local law that regulates or restricts the collection, storage, use and/or disposal of **biometric information,** including violations of any required notifications, disclosures, sale or authorizations related to such **biometric information.**

B. SECTION III - EXCLUSIONS, B. is amended to include the following:

Biometric Information Privacy

We are not liable to pay, indemnify or defend any **claim** based upon, arising out of or in consequence of any actual or alleged **biometric information privacy claim.** However, this exclusion shall not apply to an **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged violation regarding a **biometric information privacy claim** by any **insured.**

All other provisions of the policy remain unchanged except as herein expressly modified.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE PRIVACY VIOLATION ENDORSEMENT (DEFENSE COSTS ONLY WITH SUBLIMIT)

This endorsement modifies insurance provided under the following:

EMPLOYMENT PRACTICES LIABILITY COVERAGE

A. SECTION II - DEFINITIONS, F. is amended to include the following:

Employment wrongful act shall also mean any actual or alleged **employee privacy violation** committed, attempted, or allegedly committed or attempted by an **insured** while acting in the capacity as such.

B. SECTION II - DEFINITIONS is amended to add the following:

Employee privacy violation means an **insured's** failure to:

1. Secure an employee's **record** from actual or potential unauthorized access by another person or entity which results in injury to such **employee**; or
2. Provide notice as required by any state, federal or local statutory law or common law to an **employee** whose **record** was accessed or may have been accessed by an unauthorized person.

Record means an **employee's** first name or first initial, and last name, in combination with:

1. Their social security number, driver's license number or other personal identification number (including an employee identification number or student identification number);
2. Their financial account number (including a bank account number, retirement account number, or healthcare spending account number);
3. Their credit, debit or other payment card number; or
4. Any personally identifiable health information, pursuant to the Health Insurance Portability and Accountability Act of 1996, held by the **organization**,

when any such information in **1.** through **4.** above is intended by the **organization** to be accessible only by persons or entities specifically authorized by the **organization** to have access to such information.

C. SECTION III - EXCLUSIONS is amended to include the following:

This insurance does not apply to any **claim** based upon, arising out of or in consequence of an **employee privacy violation**; except we shall reimburse the **insured** for up to a maximum payment of **$250,000** for **defense costs** that exceed the Deductible amount as set forth in the Employment Practices Liability Coverage Part Declarations. Any payment of **defense costs** shall be part of and not in addition to the Limit of Insurance set forth in the Employment Practices Liability Coverage Part Declarations and such payment reduces the Limit of Insurance. However, this exclusion shall not apply to an **employment claim** for retaliatory treatment of a person with respect to actual or threatened disclosures by such person of any actual or alleged **employee privacy violation** by any **insured**.

All other provisions of the policy remain unchanged except as herein expressly modified.

CARDENS014

The Cincinnati Insurance Company

A Stock Insurance Company

CINCINNATI DATA DEFENDER™ COVERAGE PART DECLARATIONS

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

Policy Number: EMO 069 81 50

Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

Insuring Agreement **A** - Response Expenses Limit of Insurance:	$ 50,000	in the aggregate
Forensic IT Review Sublimit	$ 25,000	
Legal Review Sublimit	$ 25,000	
PR Services Sublimit	$ 25,000	
Insuring Agreement **B** - Defense and Liability Limit of Insurance:	$ 50,000	in the aggregate
Regulatory Fines and Penalties Sublimit	$ 25,000	
PCI Fines and Penalties Sublimit	$ 25,000	
Insuring Agreement **C** - Identity Recovery Limit of Insurance:	$ 25,000	in the aggregate
Lost Wages and Child and Elder Care Sublimit	$ 5,000	
Mental Health Counseling Sublimit	$ 1,000	
Miscellaneous Unnamed Costs Sublimit	$ 1,000	

Deductibles:	$ 1,000	each **claim** under Insuring Agreement **A** - Response Expenses
	$ 1,000	each **claim** under Insuring Agreement **B** - Defense and Liability
	$ 250	each **claim** under Insuring Agreement **C** - Identity Recovery

Retroactive Date: 10-19-2023

Forms and endorsements applicable to this coverage part:

ML102 01/20 CINCINNATI DATA DEFENDER™ COVERAGE FORM

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10-20-2023 13:33

EMO 069 81 50

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CINCINNATI DATA DEFENDER™ COVERAGE

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CINCINNATI DATA DEFENDER™ COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

Throughout this Coverage Part the words "you" and "your" refer to the **Named Insured** shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

SECTION I - INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which an Aggregate Limit of Insurance is shown in the Declarations:

A. Response Expenses

1. Coverage under Insuring Agreement **A** - Response Expenses applies only if all of the following conditions are met:

a. There has been a **personal data compromise**; and

b. Such **personal data compromise** is first discovered by you during the **policy year**; and

c. Such **personal data compromise** is reported to us within 60 days after the date it is first discovered by you.

2. If the conditions listed in **1.** above have been met, then we will provide coverage for the following expenses when they arise directly from the **personal data compromise** described in **1.** above and are necessary and reasonable. Coverages **d.** and **e.** apply only if there has been a notification of the **personal data compromise** to **affected individuals** as covered under coverage **c.**

a. FORENSIC IT REVIEW - Professional information technologies review if needed to determine, within the constraints of what is possible and reasonable, the nature and extent of the **personal data compromise** and the number and identities of the **affected individuals**.

This does not include costs to analyze, research or determine any of the following:

(1) Vulnerabilities in systems, procedures or physical security;

(2) Compliance with PCI or other industry security standards; or

(3) The nature or extent of loss or damage to data that is not **personally identifying information** or **personally sensitive information**.

If there is reasonable cause to suspect that a covered **personal data compromise** may have occurred, we will pay for costs covered under Forensic IT Review, even if it is eventually determined that there was no covered **personal data compromise**. However, once it is determined that there was no covered **personal data compromise**, we will not pay for any further costs.

b. LEGAL REVIEW - Professional legal counsel review of the **personal data compromise** and how you should best respond to it.

If there is reasonable cause to suspect that a covered **personal data compromise** may have occurred, we will pay for costs covered under Legal Review, even if it is eventually determined that

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there was no covered **personal data compromise**. However, once it is determined that there was no covered **personal data compromise**, we will not pay for any further costs.

c. NOTIFICATION TO AFFECTED INDIVIDUALS - We will pay your necessary and reasonable costs to provide notification of the **personal data compromise** to **affected individuals**.

d. SERVICES TO AFFECTED INDIVIDUALS - We will pay your necessary and reasonable costs to provide the following services to **affected individuals**:

(1) The following services apply to any **personal data compromise**.

(a) Informational Materials

A packet of loss prevention and customer support information.

(b) Help Line

A toll-free telephone line for **affected individuals** with questions about the **personal data compromise**. Where applicable, the line can also be used to request additional services as listed in **(2) (a)** and **(b)** below.

Note, calls by **affected individuals** or their representatives to the Help Line do not constitute the making of a **claim** under Insuring Agreement **B** – Defense and Liability.

(2) The following additional services apply to **personal data compromise** events involving **personally identifying information**.

(a) Credit Report and Monitoring:

A credit report and an electronic service automatically monitoring for activities affecting an individual's credit records. This service is subject to the **affected individual** enrolling for this service with the designated service provider.

(b) Identity Restoration Case Management:

As respects any **affected individual** who is or appears to be a victim of **identity theft** that may reasonably have arisen from the **personal data compromise**, the services of an identity restoration professional who will assist that **affected individual** through the process of correcting credit and other records and, within the constraints of what is possible and reasonable, restoring control over his or her personal identity.

e. PR SERVICES – We will pay the necessary and reasonable fees and expenses you incur, with our prior written consent, for a professional public relations firm review of and response to the potential impact of the **personal data compromise** on your business relationships. We will only pay for such fees and expenses when such a public relations firm review and response is reasonably necessary to avert or mitigate material damage to your business relationships from the **personal data compromise.**

Such fees and expenses include costs to implement public relations recommendations of such public relations firm. However, when such recommendations include advertising and special promotions designed to retain your relationship with **affected individuals**, we will not pay for promotions:

(1) Provided to any of your **executives** or **employees**; or

(2) Costing more than $25 per **affected individual**.

B. Defense and Liability

1. Coverage under Insuring Agreement **B** - Defense and Liability applies only if all of the following conditions are met:

a. During the **policy year** or any applicable **extended reporting period**, you first receive notice of a **claim** or **regulatory proceeding** which arises from a **personal data compromise** that took place on or after the Retroactive Date shown in the Declarations and before the end of the **policy period**; and

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b. Such **claim** or **regulatory proceeding** is reported to us as soon as practicable, but in no event more than 60 days after the date it is first received by you.

2. If the conditions listed in **1.** above have been met, then we will pay on behalf of the **insured defense costs** and **data compromise liability** directly arising from the **claim** or **regulatory proceeding**.

3. All **claims** or **regulatory proceedings** caused by a single **personal data compromise** will be deemed to have been made at the time that notice of the first of those **claims** or **regulatory proceedings** is received by you.

C. Identity Recovery

1. Coverage under Insuring Agreement **C** - Identity Recovery applies only if all of the following conditions are met:

   a. There has been an **identity theft** involving the personal identity of an **identity recovery insured** under this Coverage Part; and

   b. Such **identity theft** is first discovered by the **identity recovery insured** during the policy year; and

   c. Such **identity theft** is reported to us within 60 days after it is first discovered by the **identity recovery insured**.

2. If the conditions listed in **1.** above have been met, then we will provide the following to the **identity recovery insured**:

   a. Services of an **identity recovery case manager** as needed to respond to the **identity theft**; and

   b Reimbursement of necessary and reasonable **identity recovery expenses** incurred as a direct result of the **identity theft**.

SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

1. **Affected individual** means any person whose **personally identifying information** or **personally sensitive information** is lost, stolen, accidentally released or accidentally published by a **personal data compromise** covered under this Coverage Part. This definition is subject to the following provisions:

   a. **Affected individual** does not include any business or organization. Only an individual person may be an **affected individual**.

   b. An **affected individual** may reside anywhere in the world.

2. **Authorized representative** means a person or entity authorized by law or contract to act on behalf of an **identity recovery insured**.

3. **Claim:**

   a. Means:

      (1) A civil proceeding in which it is alleged that the claimant suffered damages arising from:

         (a) A **personal data compromise**; or

         (b) The violation of a governmental statute or regulation arising from a **personal data compromise**.

      (2) **Claim** includes:

         (a) An arbitration proceeding in which such damages are claimed and to which the **insured** must submit or does submit with our consent;

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(b) Any other alternative dispute resolution proceeding in which such damages are claimed and to which the **insured** must submit or does submit with our consent; or

(c) A written demand for money, when such demand could reasonably result in a civil proceeding as described in this definition.

b. Does not include any demand or action brought by or on behalf of someone who is:

(1) Your **executive**;

(2) Your owner or part-owner; or

(3) A holder of your securities;

in their capacity as such, whether directly, derivatively, or by class action. **Claim** will include proceedings brought by such individuals in their capacity as **affected individuals**, but only to the extent that the damages claimed are the same as would apply to any other **affected individual**.

4. Data compromise liability:

a. Means the following, when they arise from a **claim** or **regulatory proceeding**:

(1) Damages (including punitive and exemplary damages and the multiple portion of any multiplied damage award), judgments or settlements;

(2) Attorney's fees and other litigation costs added to that part of any judgment paid by us, when such fees and costs are awarded by law or court order; and

(3) Pre-judgment interest on that part of any judgment paid by us.

b. Also includes any Payment Card Industry (PCI) fine or penalty imposed under a contract to which you are a party when such fine or penalty arises from a **claim**. PCI Fines and Penalties do not include any increased transaction costs.

c. Also includes any fine or penalty imposed by law, to the extent such fine or penalty is legally insurable under the law of the applicable jurisdiction when such fine or penalty arises from a **regulatory proceeding**.

d. Does not include:

(1) Civil or criminal fines or penalties imposed by law, except for civil fines and penalties expressly covered under paragraphs **b.** and **c.** above;

(2) Taxes; or

(3) Matters which may be deemed uninsurable under the applicable law.

e. With respect to fines and penalties and punitive, exemplary and multiplied damages, the law of the jurisdiction most favorable to the insurability of those fines, penalties or damages shall control for the purpose of resolving any dispute between us and any **insured** regarding whether the fines, penalties or damages specified in this definition above are insurable under this Coverage Part, provided that such jurisdiction:

(1) Is where those fines, penalties or damages were awarded or imposed;

(2) Is where any **personal data compromise** took place for which such fines, penalties or damages were awarded or imposed;

(3) Is where you are incorporated or you have your principal place of business; or

(4) Is where we are incorporated or have our principal place of business.

5. Defense costs:

a. Means reasonable and necessary expenses resulting solely from the investigation, defense and appeal of any **claim** or **regulatory proceeding** against an **insured**. Such expenses may be incurred by us. Such expenses may include premiums for any appeal bond, attachment bond or similar bond. However, we have no obligation to apply for or furnish such bond.

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b. Does not include the salaries or wages of your **employees**, **executives** or **independent contractors**, or your loss of earnings.

6. **Employee** means any natural person, other than an **executive** or **independent contractor**, who was, now is or will be:

   a. Employed on a full- or part-time basis by you;

   b. Furnished temporarily to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions;

   c. Leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **8.b.**; or

   d. Your volunteer worker, which includes unpaid interns.

7. **Executive** means any natural person who was, now is or will be:

   a. The owner of a sole proprietorship that is a **named insured**; or

   b. A duly elected or appointed:

      (1) Director;

      (2) Officer;

      (3) Managing Partner;

      (4) General Partner;

      (5) Member (if a limited liability company);

      (6) Manager (if a limited liability company); or

      (7) Trustee,

      of an **organization**.

8. **Identity recovery case manager** means one or more individuals assigned by us to assist an **identity recovery insured** with communications we deem necessary for re-establishing the integrity of the personal identity of the **identity recovery insured**. This includes, with the permission and cooperation of the **identity recovery insured**, written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.

9. **Identity recovery expenses** means the following when they are reasonable and necessary expenses that are incurred as a direct result of an **identity theft** suffered by an **identity recovery insured**:

   a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an **identity theft**.

   b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an **identity theft** or amend or rectify records as to your true name or identity as a result of an **identity theft**.

   c. Costs for credit reports from established credit bureaus.

   d. Fees and expenses for an attorney approved by us for the following:

      (1) The defense of any civil suit brought against an **identity recovery insured**.

      (2) The removal of any civil judgment wrongfully entered against an **identity recovery insured**.

      (3) Legal assistance for an **identity recovery insured** at an audit or hearing by a governmental agency.

      (4) Legal assistance in challenging the accuracy of the **identity recovery insured's** consumer credit report.

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(5) The defense of any criminal charges brought against an **identity recovery insured** arising from the actions of a third party using the personal identity of the **identity recovery insured**.

e. Actual lost wages of the **identity recovery insured** for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self-employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.

f. Actual costs for supervision of children or elderly or infirm relatives or dependents of the **identity recovery insured** during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the **identity recovery insured**.

g. Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the **identity recovery insured**.

h. Any other reasonable costs necessarily incurred by an **identity recovery insured** as a direct result of the **identity theft**.

(1) Such costs include:

(a) Costs by the **identity recovery insured** to recover control over his or her personal identity.

(b) Deductibles or service fees from financial institutions.

(2) Such costs do not include:

(a) Costs to avoid, prevent or detect **identity theft** or other loss.

(b) Money lost or stolen.

(c) Costs that are restricted or excluded elsewhere in this Coverage Part or policy.

10. **Identity recovery insured** means the following:

a. When the entity insured under this Coverage Part is a sole proprietorship, the **identity recovery insured** is the individual person who is the sole proprietor of the **named insured**.

b. When an **organization** under this Coverage Part is a partnership, the **identity recovery insureds** are the current partners.

c. When the **named insured** under this Coverage Part is a corporation or other form of organization, other than those described in **a.** or **b.** above, the **identity recovery insureds** are all individuals having an ownership position of 20% or more of the insured entity. However, if and only if there is no one who has such an ownership position, then the **identity recovery insured** shall be:

(1) The chief executive of the insured entity; or

(2) As respects a religious institution, the senior ministerial employee.

d. The legally recognized spouse of any individual described in **a.**, **b.** or **c.** above.

An **identity recovery insured** must always be an individual person. The **organization** under this Coverage Part is not an **identity recovery insured**.

11. **Identity theft** means the fraudulent use of **personally identifying information**. This includes fraudulently using such information to establish credit accounts, secure loans, enter into contracts or commit crimes.

Identity theft does not include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

12. **Independent contractor** means any natural person who performs labor or service for you under a written contract or agreement with you. The status of an individual as an **independent contractor** will be determined as of the date of an alleged act, error or omission by such **independent contractor**.

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13. **Insured** means:

    a. With respect to Insuring Agreement **A** - Response Expenses any **organization**.

    b. With respect to Insuring Agreement **B** - Defense and Liability:

        (1) Any **organization**; and

        (2) Any **employee** or **executive** of an **organization**, but:

            (a) Only for the conduct of the **organization's** business within the scope of his or her employment or duties as an **executive**; and

            (b) Such **employee** or **executive** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.

        (3) At your option, any **independent contractor**, but:

            (a) Only for conduct related to the **organization's** business and within the scope of his or her duties as an **independent contractor**; and

            (b) Such **independent contractor** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.

    c. With respect to Insuring Agreement **C** - Identity Recovery any **organization**.

14. **Loss** means:

    a. With respect to Insuring Agreement **A** - Response Expenses:

        Those expenses enumerated in Section **I, A.**, Paragraph **2.**

    b. With respect to Insuring Agreement **B** - Defense and Liability:

        (1) **Defense costs**; and

        (2) **Data compromise liability**.

    c. With respect to Insuring Agreement **C** - Identity Recovery, **identity recovery expenses**.

15. **Organization** means the **named insured** and any **subsidiary**.

16. **Personal data compromise** means the loss, theft, accidental release or accidental publication of **personally identifying information** or **personally sensitive information** as respects one or more **affected individuals**. If the loss, theft, accidental release or accidental publication involves **personally identifying information**, such loss, theft, accidental release or accidental publication must result in or have the reasonable possibility of resulting in the fraudulent use of such information. This definition is subject to the following provisions:

    a. At the time of the loss, theft, accidental release or accidental publication, the **personally identifying information** or **personally sensitive information** need not be at the insured premises but must be in the direct care, custody or control of:

        (1) You; or

        (2) A professional entity with which you have a direct relationship and to which you (or an **affected individual** at your direction) have turned over (directly or via a professional transmission or transportation provider) such information for storage, processing, transmission or transportation of such information.

    b. **Personal data compromise** includes disposal or abandonment of **personally identifying information** or **personally sensitive information** without appropriate safeguards such as shredding or destruction, subject to the following provisions:

        (1) The failure to use appropriate safeguards must be accidental and not reckless or deliberate; and

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(2) Such disposal or abandonment must take place during the time period for which this Coverage Part is effective.

c. **Personal data compromise** includes situations where there is a reasonable cause to suspect that such **personally identifying information** or **personally sensitive information** has been lost, stolen, accidentally released or accidentally published, even if there is no firm proof.

d. All incidents of **personal data compromise** that are discovered at the same time or arise from the same cause will be considered one **personal data compromise**.

17. **Personally identifying information** means information, including health information, that could be used to commit fraud or other illegal activity involving the credit, access to health care or identity of an **affected individual** or **identity recovery insured**. This includes, but is not limited to, Social Security numbers or account numbers.

Personally identifying information does not mean or include information that is otherwise available to the public, such as names and addresses.

18. **Personally sensitive information** means private information specific to an individual the release of which requires notification of **affected individuals** under any applicable law.

Personally sensitive information does not mean or include **personally identifying information**.

19. **Regulatory proceeding** means an investigation, demand or proceeding alleging a violation of law or regulation brought by, or on behalf of, the Federal Trade Commission, Federal Communications Commission or other administrative or regulatory agency, or any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity.

SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

A. Applicable to Insuring Agreements **A** and **B** only:

1. Contractual Liability

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of an **insured's** assumption of liability by contract or agreement, whether oral or written. However, this exclusion shall not apply to:

a. Any liability that an **insured** would have incurred in the absence of such contract or agreement; or

b. Any PCI fines or penalties explicitly covered under Insuring Agreement **B** - Defense and Liability.

2. Criminal Investigations or Proceedings

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal investigations or proceedings.

3. Deficiency Correction

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of costs to research or correct any deficiency. This includes, but is not limited to, any deficiency in your systems, procedures or physical security that may have contributed to a **personal data compromise**.

4. Extortion

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any extortion or blackmail. This includes, but is not limited to, ransom payments and private security assistance.

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5. Fraudulent, Dishonest or Criminal Acts

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal, fraudulent or dishonest act, error or omission, or any intentional or knowing violation of the law by the **insured**.

6. Non-monetary Relief

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of that part of any **claim** seeking any non-monetary relief.

7. Prior Data Compromises

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **personal data compromise** first occurring before the Retroactive Date shown in the Declarations, or any **claim** arising from a **personal data compromise** that first occurred prior to the Retroactive Date shown in the Declarations.

8. Prior or Pending Litigation

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **claim** or other proceeding against an **insured** which was pending or existed prior to the **policy year**, or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such **claim** or other proceeding.

9. Uninsurable

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any amount not insurable under applicable law.

10. Willful Complicity

This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of the **insured's** intentional or willful complicity in a **personal data compromise**.

B. Applicable to Insuring Agreement **C** only:

1. Fraudulent, Dishonest or Criminal Acts

This insurance does not apply to any fraudulent, dishonest or criminal act by an **identity recovery insured** or any person aiding or abetting an **identity recovery insured**, or by any **authorized representative** of an **identity recovery insured**, whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an **identity recovery insured** who has no knowledge of or involvement in such fraud, dishonesty or criminal act.

2. Professional or Business Identity

This insurance does not apply to the theft of a professional or business identity.

3. Unreported Identity Theft

This insurance does not apply to an **identity theft** that is not reported in writing to the police.

SECTION IV - LIMITS OF INSURANCE AND DEDUCTIBLE

A. Insuring Agreement **A** - Response Expenses:

1. The most we will pay under Insuring Agreement **A** - Response Expenses is the Response Expenses Limit of Insurance stated in the Declarations.

2. The Response Expenses Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for the total of all **loss** covered under Insuring Agreement **A** - Response Expenses arising out of all **personal data compromise** events which are first discovered by you during the **policy year**. This limit applies regardless of the number of **personal data compromise** events discovered by you during that period.

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3. A **personal data compromise** may be first discovered by you in one **policy year** but cause covered **loss** in one or more subsequent **policy years**. If so, all covered **loss** arising from such **personal data compromise** will be subject to the Response Expenses Limit of Insurance applicable to the **policy year** when the **personal data compromise** was first discovered by you.

4. The most we will pay under Insuring Agreement **A** - Response Expenses for Forensic IT Review, Legal Review and PR Services coverages for **loss** arising from any one **personal data compromise** is the applicable sublimit for each of those coverages stated in the Declarations. These sublimits are part of, and not in addition to, the Aggregate Limit of Insurance referenced in Paragraph **2.** PR Services coverage is also subject to a limit per **affected individual** as described in Section **I.A.2.e.(2)** PR Services.

5. Coverage for Services to **affected individuals** is limited to costs to provide such services for a period of up to one year from the date of the notification to the **affected individuals** or the period required by law, whichever is longer. Notwithstanding the foregoing, coverage for Identity Restoration Case Management services initiated within such period may continue for a period of up to one year from the date such Identity Restoration Case Management services are initiated.

6. Response Expenses coverage is subject to the Response Expenses Deductible stated in the Declarations. You shall be responsible for such deductible amount as respects each **personal data compromise** covered under this Coverage Part. We may, at our option, pay any part or all of the deductible amount in order to respond effectively to a **personal data compromise** and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

B. Insuring Agreement **B** - Defense and Liability:

1. The most we will pay under Insuring Agreement **B** - Defense and Liability (other than post-judgment interest) is the Limit of Insurance stated in the Declarations.

2. The Insuring Agreement **B** - Defense and Liability Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for all **loss** covered under Insuring Agreement **B** - Defense and Liability (other than post-judgment interest) arising out of all **claims**.

3. The most we will pay under Insuring Agreement **B** - Defense and Liability for **data compromise liability** and **defense costs** related to Regulatory Fines and Penalties and PCI Fines and Penalties coverages arising from any one **claim** or **regulatory proceeding** is the applicable sublimit for each of those coverages stated in the Declarations. These sublimits are part of, and not in addition to, the Aggregate Limit of Insurance referenced in Paragraph **2.**

4. The Insuring Agreement **B** - Defense and Liability coverage is subject to the Deductible stated in the Declarations. You shall be responsible for such deductible amount as respects each **claim** or **regulatory proceeding** covered under this Coverage Part. We may, at our option, pay any part or all of the deductible amount to defend or effect settlement of any **claim, loss** or **regulatory proceeding** and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

C. Insuring Agreement **C** - Identity Recovery:

1. Case Management Service is available as needed for any one **identity theft** for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Service do not reduce the Limit of Insurance available for **identity recovery expenses**.

2. Coverage under Insuring Agreement **C** - Identity Recovery is subject to the Annual Aggregate Limit of Insurance stated in the Declarations per **identity recovery insured**. Regardless of the number of **identity theft** incidents, this limit is the most we will pay for the total of all **loss** arising out of all **identity thefts** suffered by one **identity recovery insured** which are first discovered by the **identity recovery insured** during the **policy year**. If an **identity theft** is first discovered in one **policy year** and continues into other **policy years**, all **loss** arising from such **identity theft** will be subject to the aggregate Limit of Insurance applicable to the **policy year** when the **identity theft** was first discovered.

3. Legal costs as provided under item d. of the definition of **identity recovery expenses** are part of, and not in addition to, the aggregate limit described in Paragraph **2.**

4. Item **e.** (Lost Wages) and Item **f.** (Child and Elder Care Expenses) of the definition of **identity recovery expenses** are jointly subject to the sublimit stated in the Declarations. This sublimit is part of, and not

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in addition to, the aggregate Limit of Insurance described in Paragraph **2.** Coverage is limited to wages lost and expenses incurred within 12 months after the first discovery of the **identity theft** by the **identity recovery insured**.

5. Item **g.** (Mental Health Counseling) of the definition of **identity recovery expenses** is subject to the sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the aggregate limit described in Paragraph **2.** Coverage is limited to counseling that takes place within 12 months after the first discovery of the **identity theft** by the **identity recovery insured**.

6. Item **h.** (Miscellaneous Unnamed Costs) of the definition of **identity recovery expenses** is subject to the sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the aggregate Limit of Insurance described in Paragraph **2.** Coverage is limited to costs incurred within 12 months after the first discovery of the **identity theft** by the **identity recovery insured**.

7. Coverage under Insuring Agreement **C** - Identity Recovery is subject to the Identity Recovery Deductible stated in the Declarations. Each **identity recovery insured** shall be responsible for such deductible amount only once during each **policy year**. This deductible applies only to **identity recovery expenses**.

The Limits of Insurance apply separately to each **policy year**.

SECTION V - DEFENSE AND SETTLEMENT

The provisions contained within this Section apply only to Insuring Agreement **B** - Defense and Liability.

1. We will have the right and duty to select counsel and defend the **insured** against any **claim** or **regulatory proceeding** covered by Insuring Agreement **B** - Defense and Liability, regardless of whether the allegations of such **claim** or **regulatory proceeding** are groundless, false or fraudulent. However, we shall have no duty to defend the **insured** against any **claim** or **regulatory proceeding** seeking damages or other relief not insured by Insuring Agreement **B** - Defense and Liability.

2. We may, with your written consent, make any settlement of a **claim** or **regulatory proceeding** which we deem reasonable. If you withhold consent to such settlement, our liability for all **loss** resulting from such **claim** will not exceed the amount for which we could have settled such **claim** or **regulatory proceeding** plus **defense costs** incurred as of the date we proposed such settlement in writing to you.

3. We shall not be obligated to pay any **loss**, or to defend or continue to defend any **claim** or **regulatory proceeding**, after the Insuring Agreement **B** - Defense and Liability Limit of Insurance has been exhausted.

4. We shall pay all interest on that amount of any judgment within the Insuring Agreement **B** - Defense and Liability Limit of Insurance which accrues:

   a. After entry of judgment; and

   b. Before we pay, offer to pay or deposit in court that part of the judgment within the Insuring Agreement **B** - Defense and Liability Limit of Insurance or, in any case, before we pay or offer to pay the entire Insuring Agreement **B** - Defense and Liability Limit of Insurance.

   These interest payments shall be in addition to and not part of the Defense and Liability Limit.

SECTION VI - CONDITIONS

1. Bankruptcy

   Your bankruptcy, or the bankruptcy of your estate if you are a sole proprietor, will not relieve us of our obligations under this Coverage Part.

2. Due Diligence

   You agree to use due diligence to prevent and mitigate **loss** covered under this Coverage Part. This includes, but is not limited to, complying with, and requiring your vendors to comply with, reasonable and industry-accepted protocols for:

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a. Providing and maintaining appropriate physical security for your premises, computer systems and hard copy files;

b. Providing and maintaining appropriate computer and Internet security;

c. Maintaining and updating at appropriate intervals backups of computer data;

d. Protecting transactions, such as processing credit card, debit card and check payments; and

e. Appropriate disposal of files containing **personally identifying information** or **personally sensitive information**, including shredding hard copy files and destroying physical media used to store electronic data.

3. Duties in the Event of a Claim, Regulatory Proceeding or Loss

a. If, during the **policy year**, the **insured** first becomes aware of any circumstance that could reasonably be expected to give rise to a **claim** or **regulatory proceeding**, the **insured** may give written notice to us. The notice must be made as soon as practicable, but in no event more than 60 days after the date the circumstance is first discovered by the **insured**, must be made during the **policy year** and must include:

(1) the specific details, including the date, of the circumstance;

(2) The alleged injuries or damage sustained or which may be sustained;

(3) The names of potential claimants; and

(4) The manner in which the **insured** first became aware of the circumstance.

Any subsequent **claim** or **regulatory proceeding** arising out of any circumstance which is the subject of such a written notice will be deemed to have been made at the time written notice in compliance with these requirements was first received by us.

b. If a **claim** or **regulatory proceeding** is brought against any **insured**, you must:

(1) Immediately record the specifics of the **claim** or **regulatory proceeding** and the date received; and

(2) Provide us with written notice, as soon as practicable, but in no event more than 60 days after the date the **claim** or **regulatory proceeding** is first received by you.

(3) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim** or **regulatory proceeding**;

(4) Authorize us to obtain records and other information;

(5) Cooperate with us in the investigation, settlement or defense of the **claim** or **regulatory proceeding**;

(6) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of **loss** or **defense costs** to which this insurance may also apply; and

(7) Not take any action, or fail to take any required action, that prejudices your rights or our rights with respect to such **claim** or **regulatory proceeding**.

c. In the event of a **personal data compromise** covered under Insuring Agreement **A** – Response Expenses, you must see that the following are done:

(1) Notify the police if a law may have been broken.

(2) Notify us as soon as practicable, but in no event more than 60 days after the **personal data compromise**. Include a description of any property involved.

(3) As soon as possible, give us a description of how, when and where the **personal data compromise** occurred.

(4) As often as may be reasonably required, permit us to:

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(a) Inspect the property proving the **personal data compromise**;

(b) Examine your books, records, electronic media and records and hardware;

(c) Take samples of damaged and undamaged property for inspection, testing and analysis; and

(d) Make copies from your books, records, electronic media and records and hardware.

(5) Send us signed, sworn proof of loss containing the information we request to investigate the **personal data compromise**. You must do this within 60 days after our request. We will supply you with the necessary forms.

(6) Cooperate with us in the investigation of the **personal data compromise** or settlement of the **loss**.

(7) If you intend to continue your business, you must resume all or part of your operations as quickly as possible.

(8) Make no statement that will assume any obligation or admit any liability, for any loss for which we may be liable, without our prior written consent.

(9) Promptly send us any legal papers or notices received concerning the **personal data compromise** or **loss**.

d. We may examine any **insured** under oath, while not in the presence of any other **insured** and at such times as may be reasonably required, about any matter relating to this insurance or the **claim** or **loss**, including an **insured's** books and records. In the event of an examination, an **insured's** answers must be signed.

e. No **insured** may, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without our prior written consent.

4. Help Line

For assistance, the **identity recovery insured** should call the **Identity Recovery Help Line** at **1-866-219-9831**. The **Identity Recovery Help Line** can provide the **identity recovery insured** with:

a. Information and advice for how to respond to a possible **identity theft**; and

b. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an **identity recovery insured** prior to a determination that a covered **identity theft** has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered **identity theft** has not occurred.

As respects Expense Reimbursement Coverage, the **identity recovery insured** must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for **identity recovery expenses**.

5. Legal Action Against Us

a. No person or organization has a right:

(1) To join us as a party or otherwise bring us into a suit asking for damages from an **insured**; or

(2) To sue us under this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for damages that are not payable under this Coverage Part, or that are in excess of the applicable Aggregate Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the first **named insured** and the claimant or the claimant's legal representative.

b. You may not bring any legal action against us involving **loss**:

(1) Unless you have complied with all the terms of this insurance;

(2) Until 90 days after you have filed proof of **loss** with us; and

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(3) Unless brought within 2 years from the date you reported the **claim** or **loss** to us.

If any limitation in this condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

6. Legal Advice

We are not your legal advisor. Our determination of what is or is not covered under this Coverage Part does not represent advice or counsel from us about what you should or should not do.

7. Office of Foreign Assets Control (OFAC) Compliance

Whenever insurance coverage provided by this policy would be in violation of any United States economic or trade sanctions, such insurance coverage shall be null and void.

8. Pre-Notification Consultation

You agree to consult with us prior to the issuance of notification to **affected individuals**. We assume no responsibility under this Coverage Part for any services promised to **affected individuals** without our prior agreement. If possible, this pre-notification consultation will also include the designated service provider(s) as agreed to under Condition **10.** Service Providers. You must provide the following at our pre-notification consultation with you:

a. The exact list of **affected individuals** to be notified, including contact information.

b. Information about the **personal data compromise** that may appropriately be communicated with **affected individuals**.

c. The scope of services that you desire for the **affected individuals**. For example, coverage may be structured to provide fewer services in order to make those services available to more **affected individuals** without exceeding the available Response Expenses Limit.

9. Separation of Insureds

Except with respect to the applicable Limit of Insurance, and any rights or duties specifically assigned in this Coverage Part or the policy to which it is attached, to the first **named insured**, this insurance applies separately to each **insured** against whom a **claim** is made.

10. Service Providers

a. We will only pay under this Coverage Part for services that are provided by service providers approved by us. You must obtain our prior approval for any service provider whose expenses you want covered under this Coverage Part. We will not unreasonably withhold such approval.

b. Prior to the Pre-Notification Consultation described in the Pre-Notification Consultation Condition above, you must come to agreement with us regarding the service provider(s) to be used for the Notification to Affected Individuals and Services to Affected Individuals. We will suggest a service provider. If you prefer to use an alternate service provider, our coverage is subject to the following limitations:

(1) Such alternate service provider must be approved by us;

(2) Such alternate service provider must provide services that are reasonably equivalent or superior in both kind and quality to the services that would have been provided by the service provider we had suggested; and

(3) Our payment for services provided by any alternate service provider will not exceed the amount that we would have paid using the service provider we had suggested.

11. Services

The following conditions apply as respects any services provided to you or any **affected individual** or **identity recovery insured** by us, our designees or any service firm paid for in whole or in part under this Coverage Part:

a. The effectiveness of such services depends on the cooperation and assistance of you, **affected individuals** and **identity recovery insureds**.

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b. All services may not be available or applicable to all individuals. For example, **affected individuals** and **identity recovery insureds** who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.

c. We do not warrant or guarantee that the services will end or eliminate all problems associated with the covered events.

d. Except for the services of an **identity recovery case manager** under Insuring Agreement **C** - Identity Recovery, which we will provide directly, you will have a direct relationship with the professional service firms paid for in whole or in part under this Coverage Part. Those firms work for you.

12. Valuation - Settlement

All premiums, Limits of Insurance, Deductible Amounts, **loss** and any other monetary amounts under this Coverage Part are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is agreed to or another component of **loss** under this Coverage Part is expressed in any currency other than United States of America dollars, payment under this Coverage Part shall be made in United States dollars at the rate of exchange published in *The Wall Street Journal* on the date the final judgment is entered, settlement amount is agreed upon, or the other component of **loss** is due, respectively.

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The Cincinnati Insurance Company

A Stock Insurance Company

CINCINNATI NETWORK DEFENDER™ COVERAGE PART DECLARATIONS

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

Policy Number: EMO 069 81 50

Named Insured is the same as it appears in the Common Policy Declarations unless another entry is made here.

Insuring Agreement **A** - Computer Attack Limit of Insurance:	$ 100,000	in the aggregate
Cyber Extortion Sublimit	$ 10,000	
Loss of Business Sublimit	$ 50,000	
Public Relations Sublimit	$ 50,000	
Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance:	$ 100,000	in the aggregate

Deductibles:

$ 1,000	each **claim** under Insuring Agreement **A** - Computer Attack other than Cyber Extortion
$ 1,000	each **claim** under Insuring Agreement **A** - Cyber Extortion
$ 1,000	each **claim** under Insuring Agreement **B** - Network Security and Electronic Media Liability

Retroactive Date: 10-19-2023

Forms and endorsements applicable to this coverage part:

ML103 01/20 CINCINNATI NETWORK DEFENDER™ COVERAGE FORM

10-20-2023 13:33

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CINCINNATI NETWORK DEFENDER™ COVERAGE

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CINCINNATI NETWORK DEFENDER™ COVERAGE

THIS COVERAGE PART PROVIDES CLAIMS-MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD OR ANY APPLICABLE EXTENDED REPORTING PERIOD. THE LIMIT OF INSURANCE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENSE COSTS, AND DEFENSE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE. IN NO EVENT WILL WE BE LIABLE FOR DEFENSE COSTS OR THE AMOUNT OF ANY JUDGMENT OR SETTLEMENT IN EXCESS OF THE LIMIT OF INSURANCE. READ THE ENTIRE POLICY CAREFULLY.

Throughout this Coverage Part the words "you" and "your" refer to the **Named Insured** shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

SECTION I - INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which an Aggregate Limit of Insurance is shown in the Declarations:

A. Computer Attack

1. Coverage under Insuring Agreement **A** - Computer Attack applies only if all of the following conditions are met:
   - **a.** There has been a **computer attack**; and
   - **b.** Such **computer attack** is first discovered by you during the **policy period**; and
   - **c.** Such **computer attack** occurred in the **coverage territory**; and
   - **d.** Such **computer attack** is reported to us as soon as practicable, but in no event more than 60 days after the date it is first discovered by you.
2. If all of the conditions in **a.** above have been met, then we will provide you the following coverages for **loss** directly arising from such **computer attack**.
   - **a.** CYBER EXTORTION - We will pay your necessary and reasonable **cyber extortion expenses**.
   - **b.** DATA RESTORATION - We will pay your necessary and reasonable **data restoration costs**.
   - **c.** DATA RE-CREATION - We will pay your necessary and reasonable **data re-creation costs**.
   - **d.** SYSTEM RESTORATION - We will pay your necessary and reasonable **system restoration costs**.
   - **e.** LOSS OF BUSINESS - We will pay your actual **business income loss** and your necessary and reasonable **extra expenses**.
   - **f.** PUBLIC RELATIONS - If you suffer covered **business income loss**, we will pay the necessary and reasonable fees and expenses you incur, with our prior written consent, for a professional public relations firm review of and response to the potential impact of the **computer attack** on your business relationships. We will only pay for such fees and expenses when such a public relations firm review and response is reasonably necessary to avert or mitigate material damage to your business relationships from the **computer attack**.

B. Network Security and Electronic Media Liability

1. Coverage under Insuring Agreement **B** - Network Security and Electronic Media Liability applies only if all of the following conditions are met:
   - **a.** During the **policy year** or any applicable **extended reporting period**, you first receive notice of a **claim** which arises from a **wrongful act** that:
     - **(1)** Took place on or after the Retroactive Date shown in the Declarations and before the end of the **policy period**; and
     - **(2)** Took place in the **coverage territory**; and

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b. Such **claim** is reported to us as soon as practicable, but in no event more than 60 days after the date it is first received by you.

2. If the conditions listed in **a.** above have been met, then we will pay on behalf of the **insured** the **insured's** necessary and reasonable **defense costs** and **settlement costs** directly arising from the **claim**.

3. All **claims** caused by a single **wrongful act** or series of **interrelated wrongful acts** will be deemed to have been made at the time that notice of the first of those **claims** is received by you.

SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

1. **Actual cash value** means replacement cost less a deduction that reflects depreciation, age, condition and obsolescence.

2. **Bodily injury** means bodily harm or injury, sickness, disease, disability, humiliation, shock, fright, mental anguish or mental injury, including care, loss of services or death resulting from any of these at any time.

3. **Business income loss** means the sum of the:

a. Net income (net profit or loss before income taxes) that would have been earned or incurred; and

b. Continuing normal and necessary operating expenses incurred, including **employee**, **executive** and **independent contractor** payroll,

actually lost by you during the **period of restoration**.

4. **Claim**:

a. Means a civil proceeding against an **insured** in which damages are alleged arising from a **wrongful act** or a series of **interrelated wrongful acts** allegedly committed by an **insured**, including any appeal therefrom.

b. **Claim** includes

(1) an arbitration or alternative dispute resolution proceeding that the **insured** is required to submit to or does submit to with our consent; or

(2) A written demand for money, when such demand could reasonably result in a civil proceeding as described in this definition.

c. Does not include any demand or action brought by or on behalf of someone who is:

(1) Your **executive**;

(2) Your owner or part-owner; or

(3) A holder of your securities;

in their capacity as such, whether directly, derivatively, or by class action.

5. **Computer attack** means one of the following involving the **computer system**:

a. An **unauthorized access incident**;

b. A **malware attack**;

c. A **denial of service attack** against a **computer system**; or

d. A **cyber extortion threat**.

6. **Computer system** means a computer or other electronic hardware that:

a. Is owned or leased by you and operated under your control; or

b. Is operated by a third party service provider and used for the purpose of providing hosted computer application services to you or for processing, maintaining, hosting or storing your electronic data, pursuant to a written contract with you for such services, but such computer or other electronic

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hardware operated by such third party shall only be considered to be a **computer system** with respect to the specific services provided by such third party to you under such contract.

7. **Cyber extortion expenses** means:

   a. The cost of a negotiator or investigator retained by you in connection with a **cyber extortion threat**; and

   b. Any amount paid by you in response to a **cyber extortion threat** to the party that made the **cyber extortion threat** for the purposes of eliminating the **cyber extortion threat**;

   when such expenses are necessary and reasonable and arise directly from a **cyber extortion threat**. The payment of **cyber extortion expenses** must be approved in advance by us. We will not pay for **cyber extortion expenses** that have not been approved in advance by us. We will not unreasonably withhold our approval.

9. **Cyber extortion threat** means a demand for money from you based on a credible threat, or series of related credible threats, to:

   a. Launch a **denial of service attack** against the **computer system**;

   b. Gain access to a **computer system** and use that access to steal, release or publish **personally identifying information, personally sensitive information** or **third party corporate data**;

   c. Alter, damage or destroy electronic data or software while such electronic data or software is stored within a **computer system**;

   d. Launch a **computer attack** against a **computer system** in order to alter, damage or destroy electronic data or software while such electronic data or software is stored within a **computer system**;

   e. Cause the **insured** to transfer, pay or deliver any funds or property using a **computer system** without your authorization; or

   f. Inflict **ransomware** on a **computer system**.

   Cyber extortion threat does not include any threat made in connection with a legitimate commercial dispute.

10. **Data re-creation costs**:

    a. **Data re-creation costs** means the costs of an outside professional firm hired by you to research, re-create and replace data that has been lost or corrupted and for which there is no electronic source available or where the electronic source does not have the same or similar functionality to the data that has been lost or corrupted.

    b. **Data re-creation costs** also means your actual **business income loss** and your necessary and reasonable **extra expenses** arising from the lack of the lost or corrupted data during the time required to research, re-create and replace such data.

    c. **Data re-creation costs** does not mean costs to research, re-create or replace:

       (1) Software programs or operating systems that are not commercially available; or

       (2) Data that is obsolete, unnecessary or useless to you.

11. **Data restoration costs**:

    a. Means the costs of an outside professional firm hired by you to replace electronic data that has been lost or corrupted. In order to be considered **data restoration costs**, such replacement must be from one or more electronic sources with the same or similar functionality to the data that has been lost or corrupted.

    b. Does not include costs to research, restore or replace:

       (1) Software programs or operating systems that are not commercially available; or

       (2) Data that is obsolete, unnecessary or useless to you.

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12. **Defense costs**:

    a. Means reasonable and necessary expenses resulting solely from the investigation, defense and appeal of any **claim** against an **insured**. Such expenses may be incurred by us. Such expenses may include premiums for any appeal bond, attachment bond or similar bond. However, we have no obligation to apply for or furnish such bond.

    b. Does not include the salaries or wages of your **employees**, **executives** or **independent contractors**, or your loss of earnings.

13. **Denial of service attack** means an intentional attack against a target computer or network of computers designed to overwhelm the capacity of the target computer or network in order to deny or impede authorized users from gaining access to the target computer or network through the internet.

14. **Electronic media incident** means the display of information in electronic form by you on a website or in an **insured's** email that resulted in an allegation of:

    a. Infringement of another's copyright, title, slogan, trademark, trade name, trade dress, service mark or service name;

    b. Defamation against a person or organization that is unintended;

    c. A violation of a person's right of privacy, including false light and public disclosure of private facts; or

    d. Interference with a person's right of publicity.

15. **Employee** means any natural person, other than an **executive** or **independent contractor**, who was, now is or will be:

    a. Employed on a full- or part-time basis by you;

    b. Furnished temporarily to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions;

    c. Leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **b.**; or

    d. Your volunteer worker, which includes unpaid interns.

16. **Executive** means any natural person who was, now is or will be:

    a. The owner of a sole proprietorship that is a **named insured**; or

    b. A duly elected or appointed:

        (1) Director;

        (2) Officer;

        (3) Managing Partner;

        (4) General Partner;

        (5) Member (if a limited liability company);

        (6) Manager (if a limited liability company); or

        (7) Trustee,

        of an **organization**.

17. **Extra expense** means the additional cost you incur to operate your business during the **period of restoration** over and above the cost that you normally would have incurred to operate your business during the same period had no **computer attack** occurred.

18. **Independent contractor** means any natural person who performs labor or service for you under a written contract or agreement with you. The status of an individual as an **independent contractor** will be determined as of the date of an alleged act, error or omission by such **independent contractor**.

19. **Insured** means:

    a. With respect to Insuring Agreement **A** - Computer Attack any **organization**.

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b. With respect to Insuring Agreement **B** - Network Security and Electronic Media Liability:

(1) Any **organization**; and

(2) Any **employee** or **executive** of an **organization**, but:

(a) Only for the conduct of the **organization's** business within the scope of his or her employment or duties as an **executive**; and

(b) Such **employee** or **executive** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.

(3) At your option, any **independent contractor**, but:

(a) Only for conduct related to the **organization's** business and within the scope of his or her duties as an **independent contractor**; and

(b) Such **independent contractor** shall not be an **insured** to the extent his or her actions or omissions are criminal, fraudulent, dishonest or constitute an intentional or knowing violation of the law.

20. Loss means:

a. With respect to Insuring Agreement **A** - Computer Attack:

Those expenses enumerated in Section **I, A.**, Paragraph **2.**

b. With respect to Insuring Agreement **B** - Network Security and Electronic Media Liability:

(1) Defense costs; and

(2) Settlement costs.

21. Malware attack means an attack that damages a **computer system** or data contained therein arising from malicious code, including viruses, worms, Trojans, spyware and keyloggers. This does not mean damage from shortcomings or mistakes in legitimate electronic code or damage from code installed on your **computer system** during the manufacturing process or normal maintenance.

22. Network security incident means a negligent security failure or weakness with respect to a **computer system** which allowed one or more of the following to happen:

a. The unintended propagation or forwarding of malware, including viruses, worms, Trojans, spyware and keyloggers. Malware does not include shortcomings or mistakes in legitimate electronic code.

b. The unintended abetting of a **denial of service attack** against one or more other systems.

c. The unintended loss, release or disclosure of **third party corporate data**.

23. Organization means the **named insured** and any **subsidiary**.

24. Period of restoration means the period of time that begins at the time that the **computer attack** is discovered by you and continues until the earlier of:

a. The date that all data restoration, data re-creation and system restoration directly related to the **computer attack** has been completed; or

b. The date on which such data restoration, data re-creation and system restoration could have been completed with the exercise of due diligence and dispatch.

25. Personally identifying information means information, including health information, that could be used to commit fraud or other illegal activity involving the credit, access to health care or identity of an individual. This includes, but is not limited to, Social Security numbers or account numbers.

Personally identifying information does not mean or include information that is otherwise available to the public, such as names and addresses.

26. Personally sensitive information means private information specific to an individual the release of which requires notification of affected individuals under any applicable law.

Personally sensitive information does not mean or include **personally identifying information**.

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27. **Property damage** means:

    a. Physical injury to or destruction of tangible property including all resulting loss of use; or

    b. Loss of use of tangible property that is not physically injured.

28. **Ransomware** means any software that is used to demand a ransom payment by:

    a. Restricting access to a **computer system**; or

    b. Encrypting data held within a **computer system**.

29. **Settlement costs**:

    a. Means the following, when they arise from a **claim**:

        (1) Damages (including punitive and exemplary damages and the multiple portion of any multiplied damage award), judgments or settlements;

        (2) Attorney's fees and other litigation costs added to that part of any judgment paid by us, when such fees and costs are awarded by law or court order; and

        (3) Pre-judgment interest on that part of any judgment paid by us.

    b. Does not include:

        (1) Civil or criminal fines or penalties imposed by law;

        (2) Taxes; or

        (3) Matters which may be deemed uninsurable under the applicable law.

    c. With respect to punitive, exemplary and multiplied damages, the law of the jurisdiction most favorable to the insurability of those fines, penalties or damages shall control for the purpose of resolving any dispute between us and any **insured** regarding whether the fines, penalties or damages specified in this definition above are insurable under this Coverage Part, provided that such jurisdiction:

        (1) Is where those fines, penalties or damages were awarded or imposed;

        (2) Is where any **personal data compromise** took place for which such fines, penalties or damages were awarded or imposed;

        (3) Is where you are incorporated or you have your principal place of business; or

        (4) Is where we are incorporated or have our principal place of business.

30. **System restoration costs**:

    a. Means the costs of an outside professional firm hired by you to do any of the following in order to restore your **computer system** to its pre- **computer attack** level of functionality:

        (1) Replace or reinstall computer software programs;

        (2) Remove any malicious code; and

        (3) Configure or correct the configuration of your **computer system**.

    b. Does not include:

        (1) Costs to increase the speed, capacity or utility of your **computer system**;

        (2) Labor of your **employees** or **executives**;

        (3) Any costs in excess of the **actual cash value** of your **computer system**; or

        (4) Costs to repair or replace hardware.

31. **Third party corporate data** means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not an **insured** under this Coverage Part which is not available to the general public and is provided to the **organization** subject to a mutually executed written confidentiality agreement or which the **organization** is legally required to maintain in confidence; however, **third party corporate data** shall not include **personally identifiable information** or **personally sensitive information**.

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32. **Unauthorized access incident** means the gaining of access to a **computer system** by:

    a. An unauthorized person or persons; or

    b. An authorized person or persons for unauthorized purposes.

33. **Wrongful act** means:

    a. An **electronic media incident**; or

    b. A **network security incident**.

SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

1. Contractual Liability
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of an **insured's** assumption of liability by contract or agreement, whether oral or written. However, this exclusion shall not apply to any liability that an **insured** would have incurred in the absence of such contract or agreement.

2. Criminal Investigations or Proceedings
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal investigations or proceedings.

3. Deficiency Correction
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of costs to research or correct any deficiency.

4. Extortion
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any threat, extortion or blackmail. This includes, but is not limited to, ransom payments and private security assistance.

   This exclusion does not apply to the extent that insurance coverage is provided under **SECTION I – INSURING AGREEMENTS, A.2.a.** CYBER EXTORTION.

5. Fines or Penalties
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any fines or penalties.

6. Fraudulent, Dishonest or Criminal Acts
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any criminal, fraudulent or dishonest act, error or omission, or any intentional or knowing violation of the law by the **insured**.

7. Information Technology Products
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of the propagation or forwarding of malware, including viruses, worms, Trojans, spyware and keyloggers in connection with hardware or software created, produced or modified by you for sale, lease or license to third parties.

8. Infrastructure Failure
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of failure or interruption of or damage to any electrical power supply network or telecommunication network not owned and operated by the **insured** including, but not limited to, the internet, internet service providers, DNS service providers, cable and wireless providers, internet exchange providers, search engine providers, tier 1 internet protocol networks and other providers of telecommunications or internet infrastructure.

9. Knowledge of Falsity
   This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any oral or written publication of material, if done by the **insured** or at the **insured's** direction with knowledge of its falsity.

10. Non-monetary Relief
    This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of that part of any **claim** seeking any non-monetary relief.

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11. Patent or Trade Secret Infringement
This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any actual or alleged patent or trade secret violation including any actual or alleged violation of the Patent Act, the Economic Espionage Act of 1996, or the Uniform Trade Secrets Act and their amendments.

12. Prior Wrongful Acts
This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **wrongful act** first occurring before the Retroactive Date shown in the Declarations or any **claim** arising from a **wrongful act** that first occurred prior to the Retroactive Date shown in the Declarations.

13. Prior or Pending Litigation
This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of any **claim** or other proceeding against an **insured** which was pending or existed prior to the **policy year**, or arising out of the same or substantially the same facts, circumstances or allegations which are the subject of, or the basis for, such **claim** or other proceeding.

14. Property Damage or Bodily Injury
This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of **property damage** or **bodily injury** other than **bodily injury** arising from an **electronic media incident**.

15. Willful Complicity
This insurance does not apply to **loss** or **claims** based upon, attributable to or arising out of the **insured's** intentional or willful complicity in a covered **loss** event or your reckless disregard for the security of your **computer system** or data.

SECTION IV - LIMITS OF INSURANCE AND DEDUCTIBLE

A. Insuring Agreement A - Computer Attack

1. The most we will pay under Insuring Agreement **A** - Computer Attack for Cyber Extortion coverage for **loss** arising from any one **computer attack** is the Cyber Extortion Sublimit stated in the Declarations. This Limit of Insurance is part of, and not in addition to, the Computer Attack Aggregate Limit of Insurance stated in Paragraph **4.** below.

2. The most we will pay under Insuring Agreement **A** - Computer Attack for Loss of Business coverage for **loss** arising from any one **computer attack** is the Loss of Business Sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the Computer Attack Aggregate Limit of Insurance stated in Paragraph **4.** below.

3. The most we will pay under Insuring Agreement **A** - Computer Attack for Public Relations coverage for **loss** arising from any one **computer attack** is the Public Relations Sublimit stated in the Declarations. This sublimit is part of, and not in addition to, the Computer Attack Aggregate Limit of Insurance stated in Paragraph **4.** below.

4. The Computer Attack Aggregate Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for the total of all **loss** covered under Insuring Agreement **A** - Computer Attack arising out of all **computer attack** events which are first discovered by you during the **policy year**. This limit applies regardless of the number of **computer attack** events first discovered during the **policy year**.

5. A **computer attack** may be first discovered by you in one **policy year** but it may cause covered **loss** in one or more subsequent **policy years**. If so, all covered **loss** arising from such **computer attack** will be subject to the Computer Attack Aggregate Limit of Insurance applicable to the **policy year** when the **computer attack** was first discovered by you.

6. The Computer Attack coverage is subject to the:

   a. Computer Attack other than Cyber Extortion; and

   b. Cyber Extortion,

   deductibles stated in the Declarations. In the event that elements of **loss** from the same **computer attack** include **cyber extortion expenses** as well as other insured expenses or costs, then only the single highest deductible will apply. You shall be responsible for the applicable deductible amount as respects **loss** arising from each **computer attack** covered under this Coverage Part.

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B. Insuring Agreement B - Network Security and Electronic Media Liability

1. Except for post-judgment interest, the most we will pay under Insuring Agreement **B** - Network Security and Electronic Media Liability is the Network Security and Electronic Media Liability Aggregate Limit of Insurance stated in the Declarations.

2. The Network Security and Electronic Media Liability Aggregate Limit of Insurance is an annual aggregate limit. This amount is the most we will pay for the total of all **loss** covered under Insuring Agreement **B** – Network Security and Electronic Media Liability (other than post-judgment interest) arising out of all **claims**.

3. The Insuring Agreement **B** – Network Security and Electronic Media Liability coverage is subject to the Network Security and Electronic Media Liability Deductible stated in the Declarations. You shall be responsible for the applicable deductible amount as respects **loss** arising from each **claim** covered under this Coverage Part. We may, at our option, pay any part or all of the deductible amount to defend or effect settlement of any **claim** or **loss** and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

The Limits of Insurance apply separately to each **policy year**.

SECTION V - DEFENSE AND SETTLEMENT

The provisions contained within this Section apply only to Insuring Agreement **B** - Network Security and Electronic Media Liability.

1. We will have the right and duty to select counsel and defend the **insured** against any **claim** covered by Insuring Agreement **B** - Network Security and Electronic Media Liability, regardless of whether the allegations of such **claim** are groundless, false or fraudulent. However, we shall have no duty to defend the **insured** against any **claim** seeking damages or other relief not insured by Insuring Agreement **B** - Network Security and Electronic Media Liability.

2. We may, with your written consent, make any settlement of a **claim** which we deem reasonable. If you withhold consent to such settlement, our liability for all **loss** resulting from such **claim** will not exceed the amount for which we could have settled such **claim** plus **defense costs** incurred as of the date we proposed such settlement in writing to you.

3. We shall not be obligated to pay any **loss**, or to defend or continue to defend any **claim**, after the Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance has been exhausted.

4. We shall pay all interest on that amount of any judgment within the Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance which accrues:

   a. After entry of judgment; and

   b. Before we pay, offer to pay or deposit in court that part of the judgment within the Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance or, in any case, before we pay or offer to pay the entire Insuring Agreement **B** - Network Security and Electronic Media Liability Limit of Insurance.

These interest payments shall be in addition to and not part of the Network Security and Electronic Media Liability Limit of Insurance.

SECTION VI - CONDITIONS

1. Bankruptcy
   Your bankruptcy, or the bankruptcy of your estate if you are a sole proprietor, will not relieve us of our obligations under this Coverage Part.

2. Due Diligence
   You agree to use due diligence to prevent and mitigate **loss** covered under this Coverage Part. This includes, but is not limited to, complying with, and requiring your vendors to comply with, reasonable and industry-accepted protocols for:

   a. Providing and maintaining appropriate physical security for your premises, **computer systems** and hard copy files;

   b. Providing and maintaining appropriate computer and Internet security; and

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c. Maintaining and updating at appropriate intervals backups of computer data.

3. Duties in the Event of a Claim or Loss

a. If, during the **policy year**, the **insured** first becomes aware of any circumstance that could reasonably be expected to give rise to a **claim**, the **insured** may give written notice to us. The notice must be made as soon as practicable, but in no event more than 60 days after the date the circumstance is first discovered by the **insured**, must be made during the **policy year** and must include:

(1) the specific details, including the date, of the circumstance;

(2) The alleged injuries or damage sustained or which may be sustained;

(3) The names of potential claimants; and

(4) The manner in which the **insured** first became aware of the circumstance.

Any subsequent **claim** arising out of any circumstance which is the subject of such a written notice will be deemed to have been made at the time written notice in compliance with these requirements was first received by us.

b. If a **claim** is brought against any **insured**, you must:

(1) Immediately record the specifics of the **claim** and the date received; and

(2) Provide us with written notice, as soon as practicable, but in no event more than 60 days after the date the **claim** is first received by you.

(3) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the **claim**;

(4) Authorize us to obtain records and other information;

(5) Cooperate with us in the investigation, settlement or defense of the **claim**;

(6) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of **loss** to which this insurance may also apply; and

(7) Not take any action, or fail to take any required action, that prejudices your rights or our rights with respect to such **claim**.

c. In the event of a **computer attack** covered under Insuring Agreement **A** - Computer Attack, you must see that the following are done:

(1) Notify the police if a law may have been broken.

(2) Notify us as soon as practicable, but in no event more than 60 days after the **computer attack**. Include a description of any property involved.

(3) As soon as possible, give us a description of how, when and where the **computer attack** occurred.

(4) As often as may be reasonably required, permit us to:

(a) Inspect the property proving the **computer attack**;

(b) Examine your books, records, electronic media and records and hardware;

(c) Take samples of damaged and undamaged property for inspection, testing and analysis; and

(d) Make copies from your books, records, electronic media and records and hardware.

(5) Send us signed, sworn proof of loss containing the information we request to investigate the **computer attack**. You must do this within 60 days after our request. We will supply you with the necessary forms.

(6) Cooperate with us in the investigation or settlement of the **computer attack**.

(7) If you intend to continue your business, you must resume all or part of your operations as quickly as possible.

(8) Make no statement that will assume any obligation or admit any liability, for any **loss** for which we may be liable, without our prior written consent.

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(9) Promptly send us any legal papers or notices received concerning the **computer attack** or **loss**.

d. We may examine any **insured** under oath, while not in the presence of any other **insured** and at such times as may be reasonably required, about any matter relating to this insurance or the **claim** or **loss**, including an **insured's** books and records. In the event of an examination, an **insured's** answers must be signed.

e. No **insured** may, except at their own cost, voluntarily make a payment, assume any obligation, or incur any expense without our prior written consent.

4. Legal Action Against Us

a. No person or organization has a right:

(1) To join us as a party or otherwise bring us into a suit asking for damages from an **insured**; or

(2) To sue us under this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an **insured**; but we will not be liable for damages that are not payable under this Coverage Part, or that are in excess of the applicable Aggregate Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the first **named insured** and the claimant or the claimant's legal representative.

b. You may not bring any legal action against us involving **loss**:

(1) Unless you have complied with all the terms of this insurance;

(2) Until 90 days after you have filed proof of **loss** with us; and

(3) Unless brought within 2 years from the date you reported the **claim** or **loss** to us.

If any limitation in this condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

5. Office of Foreign Assets Control (OFAC) Compliance

Whenever insurance coverage provided by this policy would be in violation of any United States economic or trade sanctions, such insurance coverage shall be null and void.

6. Separation of Insureds

Except with respect to the applicable Limit of Insurance, and any rights or duties specifically assigned in this Coverage Part or the policy to which it is attached, to the first **named insured**, this insurance applies separately to each **insured** against whom **claim** is made.

7. Services

The following conditions apply as respects any services provided to you by any service firm provided or paid for in whole or in part under this Coverage Part:

a. The effectiveness of such services depends on your cooperation and assistance.

b. We do not warrant or guarantee that the services will end or eliminate all problems associated with the covered events.

8. Valuation - Settlement

All premiums, Limits of Insurance, Deductible Amounts, **loss** and any other monetary amounts under this Coverage Part are expressed and payable in the currency of the United States of America. If judgment is rendered, settlement is agreed to or another component of **loss** under this Coverage Part is expressed in any currency other than United States of America dollars, payment under this Coverage Part shall be made in United States dollars at the rate of exchange published in *The Wall Street Journal* on the date the final judgment is entered, settlement amount is agreed upon, or the other component of **loss** is due, respectively.

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The Cincinnati Insurance Company

A Stock Insurance Company

CRIME
COVERAGE PART DECLARATIONS

Policy Number: **EMO 069 81 50**

Named Insured is the same as it appears in the Common Policy Dedarations unless another entry is made here.

Employee Benefit Plan(s) Included as Insureds:

ALL PLANS GOVERNED BY ERISA AND SPONSORED SOLELY BY THE NAMED INSURED AS OF THE EFFECTIVE DATE OF COVERAGE AND ANY SUCH PLAN ADDED DURING THE POLICY PERIOD.

Insuring Agreements	Limit of Insurance	Deductible Amount
A. Employee Theft	$1,000,000	$10,000
B. Forgery or Alteration	$1,000,000	$10,000
C. Inside the Premises	$NOT COVERED	$N/A
D. Outside the Premises	$NOT COVERED	$N/A
E. Computer Fraud	$1,000,000	$10,000
F. Funds Transfer Fraud	$1,000,000	$10,000
G. Money Orders and Counterfeit Money	$NOT COVERED	$N/A
H. Clients' Property	$1,000,000	$10,000
I. Claim Expense	$10,000	$0

Forms and endorsements applicable to this coverage part:

ML116 01/16 CRIME COVERAGE
ML373 09/21 INSURED INITIATED TRANSFER EXCLUSION
ML4118AZ 07/16 ARIZONA CHANGES - CRIME COVERAGE
ML4249 01/21 SUBSIDIARY COVERAGE ENDORSEMENT
ML4271 01/21 ERISA INFLATION GUARD
ML4188 01/18 INCLUDE DESIGNATED AGENTS AS EMPLOYEES
ML435 01/16 CHANGE IN CONTROL OF THE INSURED - NOTICE TO THE COMPANY
ML444 01/16 INCLUDE VOLUNTEER WORKERS AS EMPLOYEES

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CRIME COVERAGE

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CRIME COVERAGE

Throughout this Coverage Part the words "you" and "your" refer to the Named Insured shown in the Crime Coverage Part Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

SECTION I - INSURING AGREEMENTS

Coverage is provided under the following Insuring Agreements for which a Limit of Insurance is shown in the Crime Coverage Part Declarations and applies to loss that you sustain resulting directly from an **occurrence** taking place at any time which is **discovered** by you during the Policy Period shown in the Common Policy Declarations or during the period of time provided in the Extended Period to Discover Loss Condition **A.7.**:

A. Employee Theft

We will pay for loss of or damage to **money, securities** and **other property** resulting directly from **theft** committed by an **employee**, whether identified or not, acting alone or in collusion with other persons.

For the purposes of this Insuring Agreement, **theft** shall also include forgery.

B. Forgery or Alteration

1. We will pay for loss resulting directly from **forgery** or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in **money** that are:

   a. Made or drawn by or drawn upon you; or

   b. Made or drawn by one acting as your agent;

   or that are purported to have been so made or drawn.

   For the purposes of this Insuring Agreement, a substitute check as defined in the Check Clearing for the 21st Century Act shall be treated the same as the original it replaced.

2. If you are sued for refusing to pay any instrument covered in Paragraph **B.1.**, on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defense. The amount that we will pay is in addition to the Limit of Insurance applicable to this Insuring Agreement.

C. Inside the Premises

1. We will pay for loss of:

   a. **Money** and **securities** inside the **premises** or **banking premises**:

      (1) Resulting directly from **theft** committed by a person present inside such **premises** or **banking premises**; or

      (2) Resulting directly from disappearance or destruction.

   b. Or damage to **other property**:

      (1) Inside the **premises** resulting directly from an actual or attempted **robbery** of a **custodian**; or

      (2) Inside the **premises** in a safe or vault resulting directly from an actual or attempted **safe burglary**.

2. We will pay for loss from damage to the **premises** or its exterior resulting directly from an actual or attempted **theft** of **money** and **securities** or **robbery** or **safe burglary** of **other property**, if you are the owner of the **premises** or are liable for damage to it.

3. We will pay for loss of or damage to a locked safe, vault, cash register, cash box or cash drawer located inside the **premises** resulting directly from an actual or attempted **theft** of, **robbery**, **safe burglary** or unlawful entry into those containers.

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D. Outside the Premises

1. We will pay for loss of **money** and **securities** outside the **premises** in the care and custody of a **messenger** or an armored motor vehicle company resulting directly from **theft**, disappearance or destruction.

2. We will pay for loss of or damage to **other property** outside the **premises** in the care and custody of a **messenger** or an armored motor vehicle company resulting directly from an actual or attempted **robbery**.

E. Computer Fraud

We will pay for loss of or damage to **money**, **securities** and **other property** resulting directly from the use of any computer to fraudulently cause a transfer of that property from inside the **premises** or **banking premises**:

1. To a person (other than a **messenger**) outside those **premises**; or

2. To a place outside those **premises**.

F. Funds Transfer Fraud

We will pay for loss of **funds** resulting directly from a **fraudulent instruction** directing a financial institution to transfer, pay or deliver **funds** from your **transfer account**.

G. Money Orders and Counterfeit Money

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, **money** or services:

1. Money orders issued by any post office, express company or bank that are not paid upon presentation; or

2. **Counterfeit money** that is acquired during the regular course of business.

H. Clients' Property

We will pay for loss of or damage to **money**, **securities** and **other property** sustained by your **client** resulting directly from **theft** committed by an identified **employee** acting alone or in collusion with other persons.

I. Claim Expense

We will pay for **claim expenses** incurred by you to establish the existence and amount of any covered loss under any Insuring Agreement under this Coverage Part.

SECTION II - DEFINITIONS

Where set forth in bold type in this Coverage Part, whether in singular or in plural, the following terms shall have the meanings indicated.

A. **Banking premises** means the interior of that portion of any building occupied by a banking institution or similar safe depository.

B. **Claim expense** means necessary and reasonable expenses incurred and paid by you to establish the existence and amount of any covered loss. **Claim expense** shall not include any of your internal corporate fees or costs (direct or indirect) including, but not limited to, wages and salaries. **Claims expenses** shall not include expenses incurred by any **client**.

C. **Client** means any entity for whom you perform services under a written contract.

D. **Counterfeit money** means an imitation of **money** that is intended to deceive and to be taken as genuine.

E. **Custodian** means you, or any of your partners or **members**, or any **employee** while having care and custody of property inside the **premises**, excluding any person while acting as a **watchperson** or janitor.

F. **Discover** or **discovered** means the time when you first become aware of facts which would cause a reasonable person to assume that a loss of a type covered by this insurance has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known.

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Discover or **discovered** also means the time when you first receive notice of an actual or potential claim in which it is alleged that you are liable to a third party under circumstances which, if true, would constitute a loss under this insurance.

G. Employee:

1. **Employee** means:

   a. Any natural person:

   (1) While in your service and for the first 30 days immediately after termination of service, unless such termination is due to **theft** or any other dishonest act committed by the **employee**;

   (2) Who you compensate directly by salary, wages or commissions; and

   (3) Who you have the right to direct and control while performing services for you;

   b. Any natural person who is furnished temporarily to you:

   (1) To substitute for a permanent **employee** as defined in Paragraph **1.a.**, who is on leave; or

   (2) To meet seasonal or short-term work load conditions;

   while that person is subject to your direction and control and performing services for you, excluding, however, any such person while having care and custody of property outside the **premises**;

   c. Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph **1.b.**;

   d. Any natural person who is:

   (1) A trustee, officer, employee, administrator or manager, except an administrator or manager who is an independent contractor, of any **employee benefit plan**; and

   (2) A director or trustee of yours while that person is engaged in handling **funds** or **other property** of any **employee benefit plan**;

   e. Any natural person who is a former **employee**, partner, **member**, **manager**, director or trustee retained as a consultant while performing services for you;

   f. Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside the **premises**;

   g. Any **employee** of an entity merged or consolidated with you prior to the effective date of this insurance; or

   h. Any of your **managers**, directors or trustees while:

   (1) Performing acts within the scope of the usual duties of an **employee**; or

   (2) Acting as a member of any committee duly elected or appointed by resolution of your board of directors or board of trustees to perform specific, as distinguished from general, directorial acts on your behalf.

2. **Employee** does not mean any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character not specified in Paragraph **G.1.**

H. Employee benefit plan means any welfare or pension benefit plan shown in the Crime Coverage Part Declarations that you sponsor and which is subject to the Employee Retirement Income Security Act of 1974 (ERISA) and any amendments thereto.

I. Forgery means the signing of the name of another person or organization with intent to deceive; it does not mean a signature which consists in whole or in part of one's own name signed with or without authority, in any capacity, for any purpose.

J. Fraudulent instruction means:

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1. An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by you, but which was in fact fraudulently transmitted by someone else without your knowledge or consent;

2. A written instruction (other than those described in Insuring Agreement **B.**) issued by you, which was forged or altered by someone other than you without your knowledge or consent, or which purports to have been issued by you, but was in fact fraudulently issued without your knowledge or consent; or

3. An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by you which purports to have been transmitted by an **employee** but which was in fact fraudulently transmitted by someone else without your or the **employee's** knowledge or consent.

K. **Funds** means **money** and **securities**.

L. **Manager** means a person serving in a directorial capacity for a limited liability company.

M. **Member** means an owner of a limited liability company represented by its membership interest, who also may serve as a **manager**.

N. **Messenger** means you, or a relative of yours, or any of your partners or **members**, or any **employee** while having care and custody of property outside the **premises**.

O. **Money** means a medium of exchange in current use including:

1. Currency, coins, bank notes and bullion; and

2. Travelers checks, register checks and money orders held for sale to the public.

P. **Occurrence** means:

1. Under Insuring Agreements **A.** and **H.**:

   a. An individual act;

   b. The combined total of all separate acts whether or not related; or

   c. A series of acts whether or not related;

   committed by an **employee** acting alone or in collusion with other persons, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.

2. Under Insuring Agreement **B.**:

   a. An individual act;

   b. The combined total of all separate acts whether or not related; or

   c. A series of acts whether or not related;

   committed by a person acting alone or in collusion with other persons, involving one or more instruments, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.

3. Under All Other Insuring Agreements:

   a. An individual act or event;

   b. The combined total of all separate acts or events whether or not related; or

   c. A series of acts or events whether or not related;

   committed by a person acting alone or in collusion with other persons, or not committed by any person, during the Policy Period shown in the Common Policy Declarations, before such Policy Period or both.

Q. **Other property** means any tangible property other than **money** and **securities** that has intrinsic value. **Other property** does not include computer programs, electronic data or any property specifically excluded under this insurance.

R. **Premises** means the interior of that portion of any building you occupy in conducting your business.

S. **Robbery** means the unlawful taking of property from the care and custody of a person by one who has:

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1. Caused or threatened to cause that person bodily harm; or
2. Committed an obviously unlawful act witnessed by that person.

T. **Safe burglary** means the unlawful taking of:

1. Property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or
2. A safe or vault from inside the **premises**.

U. **Securities** means negotiable and nonnegotiable instruments or contracts representing either **money** or property and includes:

1. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
2. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include **money**.

V. **Theft** means:

1. Under Insuring Agreement **H.**, the unlawful taking of property to the deprivation of your **client**.
2. Under All Other Insuring Agreements, the unlawful taking of property to the deprivation of the Insured.

W. **Transfer account** means an account maintained by you at a financial institution from which you can initiate the transfer, payment or delivery of **funds**:

1. By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic funds transfer system; or
2. By means of written instructions (other than those described in Insuring Agreement **B.**) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic funds transfer system.

X. **Watchperson** means any person you retain specifically to have care and custody of property inside the **premises** and who has no other duties.

SECTION III - EXCLUSIONS

The descriptions in the headings of these exclusions are solely for convenience and form no part of the terms and conditions of coverage.

A. Acts Committed by You, Your Partners or Your Members

This insurance does not cover loss resulting from **theft** or any other dishonest act committed by:

1. You; or
2. Any of your partners or **members**;

whether acting alone or in collusion with other persons.

B. Acts of Employees Learned of by You Prior to the Policy Period

This insurance does not cover loss caused by an **employee** if the **employee** had also committed **theft** or any other dishonest act prior to the effective date of this insurance and you or any of your partners, **members**, **managers**, officers, directors or trustees, not in collusion with the **employee**, learned of that **theft** or dishonest act prior to the Policy Period shown in the Common Policy Declarations.

C. Acts of Employees, Managers, Directors, Trustees or Representatives

This insurance does not cover loss resulting from **theft** or any other dishonest act committed by any of your **employees**, **managers**, directors, trustees or authorized representatives:

1. Whether acting alone or in collusion with other persons; or
2. While performing services for you or otherwise;

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except when covered under Insuring Agreements **A.** or **H.**

D. Confidential Information

This insurance does not cover loss resulting from:

1. The unauthorized disclosure of your confidential information including, but not limited to, patents, trade secrets, processing methods or customer lists; or
2. The unauthorized use or disclosure of confidential information of another person or entity which is held by you including, but not limited to, financial information, personal information, credit card information or similar non-public information.

E. Governmental Action

This insurance does not cover loss resulting from seizure or destruction of property by order of governmental authority.

F. Indirect Loss

This insurance does not cover loss that is an indirect result of an **occurrence** covered by this insurance including, but not limited to, loss resulting from:

1. Your inability to realize income that you would have realized had there been no loss of or damage to **money**, **securities** or **other property**.
2. Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
3. Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance, except when covered under Insuring Agreement **I.**

G. Legal Fees, Costs and Expenses

This insurance does not cover fees, costs and expenses incurred by you which are related to any legal action, except when covered under Insuring Agreement **B.**

H. Nuclear Hazard

This insurance does not cover loss or damage resulting from nuclear reaction or radiation or radioactive contamination, however caused.

I. Pollutants

This insurance does not cover loss or damage caused by or resulting from pollutants. Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, petroleum and petroleum by-products, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. Pollutants include but are not limited to substances which are generally recognized in industry or government to be harmful or toxic to persons, property, or the environment regardless of whether injury or damage is caused directly or indirectly by the pollutants and whether:

1. You are regularly or otherwise engaged in activities which taint or degrade the environment; or
2. You use, generate or produce the pollutant.

J. War and Military Action

This insurance does not cover loss or damage resulting from:

1. War, including undeclared or civil war;
2. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
3. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

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K. Inventory Shortages

Insuring Agreement **A.** does not cover loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

1. An inventory computation; or
2. A profit and loss computation.

However, where you establish wholly apart from such computations that you have sustained a loss, then you may offer your inventory records and actual physical count of inventory in support of the amount of loss claimed.

L. Trading

Insuring Agreement **A.** does not cover loss resulting from trading, whether in your name or in a genuine or fictitious account.

M. Warehouse Receipts

Insuring Agreement **A.** does not cover loss resulting from the fraudulent or dishonest signing, issuing, cancelling or failing to cancel, a warehouse receipt or any papers connected with it.

N. Accounting or Arithmetical Errors or Omissions

Insuring Agreements **C.** and **D.** do not cover loss resulting from accounting or arithmetical errors or omissions.

O. Exchanges or Purchases

Insuring Agreements **C.** and **D.** do not cover loss resulting from the giving or surrendering of property in any exchange or purchase.

P. Fire

Insuring Agreements **C.** and **D.** do not cover loss or damage resulting from fire, however caused, except:

1. Loss of or damage to **money** and **securities**; and
2. Loss from damage to a safe or vault.

Q. Money Operated Devices

Insuring Agreements **C.** and **D.** do not cover loss of property contained in any money operated device unless the amount of **money** deposited in it is recorded by a continuous recording instrument in the device.

R. Motor Vehicles or Equipment and Accessories

Insuring Agreements **C.** and **D.** do not cover loss of or damage to motor vehicles, trailers or semi-trailers or equipment and accessories attached to them.

S. Transfer or Surrender of Property

Insuring Agreements **C.** and **D.** do not cover loss of or damage to property after it has been transferred or surrendered to a person or place outside the **premises** or **banking premises**:

1. On the basis of unauthorized instructions;
2. As a result of a threat to do bodily harm to any person;
3. As a result of a threat to do damage to any property;
4. As a result of a threat to introduce a denial of service attack into your computer system;
5. As a result of a threat to introduce a virus or other malicious instruction into your computer system which is designed to damage, destroy or corrupt data or computer programs stored within your computer system;
6. As a result of a threat to contaminate, pollute or render substandard your products or goods; or
7. As a result of a threat to disseminate, divulge or utilize:
   a. Your confidential information; or

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b. Weaknesses in the source code within your computer system.

But, this Exclusion does not apply under Insuring Agreement **D.** to loss of **money**, **securities** or **other property** while outside the **premises** in the care and custody of a **messenger** if you had no knowledge of any threat at the time the conveyance began or had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

T. Vandalism

Insuring Agreements **C.** and **D.** do not cover loss from damage to the **premises** or its exterior, or to any safe, vault, cash register, cash box, cash drawer or **other property** by vandalism or malicious mischief.

U. Voluntary Parting of Title to or Possession of Property

Insuring Agreements **C.** and **D.** do not cover loss resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.

V. Credit Card Transactions

Insuring Agreement **E.** does not cover loss resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value or other cards or the information contained on such cards.

W. Funds Transfer Fraud

Insuring Agreement **E.** does not cover loss resulting from a **fraudulent instruction** directing a financial institution to transfer, pay or deliver **funds** from your **transfer account**.

X. Inventory Shortages

Insuring Agreement **E.** does not cover loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:

1. An inventory computation; or

2. A profit and loss computation.

Y. Computer Fraud

Insuring Agreement **F.** does not cover loss resulting from the use of a computer to fraudulently cause a transfer of **money**, **securities** or **other property**.

SECTION IV - LIMIT OF INSURANCE

The most we will pay for all loss resulting directly from an **occurrence** is the applicable Limit of Insurance shown in the Crime Coverage Part Declarations.

If any loss is covered under more than one Insuring Agreement or Coverage, the most we will pay for such loss shall not exceed the largest Limit of Insurance available under any one of those Insuring Agreements or Coverages.

SECTION V - DEDUCTIBLE

We will not pay for loss resulting directly from an **occurrence** unless the amount of loss exceeds the Deductible Amount shown in the Crime Coverage Part Declarations. We will then pay the amount of loss in excess of the Deductible Amount, up to the Limit of Insurance.

SECTION VI - CONDITIONS

A. CONDITIONS APPLICABLE TO ALL INSURING AGREEMENTS

1. Additional Premises or Employees

If, while this insurance is in force, you establish any additional **premises** or hire additional **employees**, other than through consolidation or merger with, or purchase or acquisition of assets or liabilities of, another entity, such **premises** and **employees** shall automatically be covered under this insurance. Notice to us of an increase in the number of **employees** or **employees** need not be given

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and no additional premium need be paid for the remainder of the Policy Period shown in the Common Policy Declarations.

2. Concealment, Misrepresentation or Fraud

This insurance is void in any case of fraud by you as it relates to this insurance at any time. It is also void if you or any other Insured, at any time, intentionally conceal or misrepresent a material fact concerning:

a. This insurance;

b. The property covered under this insurance;

c. Your interest in the property covered under this insurance; or

d. A claim under this insurance.

3. Consolidation - Merger or Acquisition

If you consolidate or merge with, or purchase or acquire the assets or liabilities of, another entity:

a. You must give us written notice as soon as possible and obtain our written consent to extend the coverage provided by this insurance to such consolidated or merged entity or such purchased or acquired assets or liabilities. We may condition our consent by requiring payment of an additional premium; but

b. For the first 90 days after the effective date of such consolidation, merger or purchase or acquisition of assets or liabilities, the coverage provided by this insurance shall apply to such consolidated or merged entity or such purchased or acquired assets or liabilities, provided that all **occurrences** causing or contributing to a loss involving such consolidation, merger or purchase or acquisition of assets or liabilities, must take place after the effective date of such consolidation, merger or purchase or acquisition of assets or liabilities.

4. Cooperation

You must cooperate with us in all matters pertaining to this insurance as stated in its terms and conditions.

5. Duties in the Event of Loss

After you **discover** a loss or a situation that may result in loss of or damage to **money**, **securities** or **other property** you must:

a. Notify us as soon as possible. If you have reason to believe that any loss (except for loss covered under Insuring Agreement **A.**, **B.** or **H.**) involves a violation of law, you must also notify the local law enforcement authorities.

b. Submit to examination under oath at our request and give us a signed statement of your answers.

c. Produce for our examination all pertinent records.

d. Give us a detailed, sworn proof of loss within 120 days.

e. Cooperate with us in the investigation and settlement of any claim.

6. Employee Benefit Plans

a. The **employee benefit plans** shown in the Crime Coverage Part Declarations (hereafter referred to as Plan) are included as Insureds under Insuring Agreement **A.**

b. If any Plan is insured jointly with any other entity under this insurance, you or the Plan Administrator must select a Limit of Insurance for Insuring Agreement **A.** that is sufficient to provide a Limit of Insurance for each Plan that is at least equal to that required if each Plan were separately insured.

c. With respect to loss sustained or **discovered** by any such Plan, Insuring Agreement **A.** is replaced by the following:

We will pay for loss of or damage to **funds** and **other property** resulting directly from fraudulent or dishonest acts committed by an **employee**, whether identified or not, acting alone or in collusion with other persons.

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d. If the first Named Insured is an entity other than a Plan, any payment we make for loss sustained by any Plan will be made to the Plan sustaining the loss.

e. If two or more Plans are insured under this insurance, any payment we make for loss:

(1) Sustained by two or more Plans; or

(2) Of commingled **funds** or **other property** of two or more Plans;

resulting directly from an **occurrence** will be made to each Plan sustaining loss in the proportion that the Limit of Insurance required for each Plan bears to the total Limit of Insurance of all Plans sustaining loss.

f. The Deductible Amount applicable to Insuring Agreement **A.** does not apply to loss sustained by any Plan.

7. Extended Period to Discover Loss

We will pay for loss that you sustained prior to the effective date of cancellation of this insurance, which is **discovered** by you:

a. No later than 60 days from the date of that cancellation. However, this extended period to **discover** loss terminates immediately upon the effective date of any other insurance obtained by you, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.

b. No later than 1 year from the date of that cancellation with regard to any **employee benefit plans**.

8. Joint Insured

a. If more than one Insured is named in the Crime Coverage Part Declarations, the first Named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first Named Insured ceases to be covered, then the next Named Insured will become the first Named Insured.

b. If any Insured, or partner, **member** or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.

c. An **employee** of any Insured is considered to be an **employee** of every Insured.

d. If this insurance or any of its coverages is cancelled as to any Insured, loss sustained by that Insured is covered only if it is **discovered** by you:

(1) No later than 60 days from the date of that cancellation. However, this extended period to **discover** loss terminates immediately upon the effective date of any other insurance obtained by that Insured, whether from us or another insurer, replacing in whole or in part the coverage afforded under this insurance, whether or not such other insurance provides coverage for loss sustained prior to its effective date.

(2) No later than 1 year from the date of that cancellation with regard to any **employee benefit plans**.

e. We will not pay more for loss sustained by more than one Insured than the amount we would pay if all such loss had been sustained by one Insured.

f. Payment by us to the first Named Insured for loss sustained by any Insured, other than an **employee benefit plan**, shall fully release us on account of such loss.

9. Legal Action Against Us

You may not bring any legal action against us involving loss:

a. Unless you have complied with all the terms of this insurance;

b. Until 90 days after you have filed proof of loss with us; and

c. Unless brought within 2 years from the date you **discovered** the loss.

If any limitation in this Condition is prohibited by law, such limitation is amended so as to equal the minimum period of limitation provided by such law.

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10. Liberalization

If we adopt any revision that would broaden the coverage under this insurance and would be effective during the Policy Period without additional premium, the broadened coverage will immediately apply to this insurance as of the latter of:

a. The date we implemented the change in the headquarters state which is the basis upon which the policy was issued; or

b. The date the applicable Coverage Part became effective.

11. Other Insurance

If other valid and collectible insurance is available to you for loss covered under this insurance, our obligations are limited as follows:

a. Primary Insurance:

When this insurance is written as primary insurance, and:

(1) You have other insurance subject to the same terms and conditions as this insurance, we will pay our share of the covered loss. Our share is the proportion that the applicable Limit of Insurance shown in the Crime Coverage Part Declarations bears to the total limit of all insurance covering the same loss.

(2) You have other insurance covering the same loss other than that described in Paragraph **a.(1),** we will only pay for the amount of loss that exceeds:

(a) The Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not; or

(b) The Deductible Amount shown in the Crime Coverage Part Declarations;

whichever is greater. Our payment for loss is subject to the terms and conditions of this insurance.

b. Excess Insurance:

(1) When this insurance is written excess over other insurance, we will only pay for the amount of loss that exceeds the Limit of Insurance and Deductible Amount of that other insurance, whether you can collect on it or not. Our payment for loss is subject to the terms and conditions of this insurance.

(2) However, if loss covered under this insurance is subject to a Deductible, we will reduce the Deductible Amount shown in the Crime Coverage Part Declarations, by the sum total of all such other insurance plus any Deductible Amount applicable to that other insurance.

12. Ownership of Property; Interests Covered

The property covered under this insurance is limited to property:

a. That you own or lease; or

b. That you hold for others whether or not you are legally liable for the loss of such property.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization. Any claim for loss that is covered under this insurance must be presented by you.

13. Policy Bridge - Discovery Replacing Loss Sustained

a. If this insurance replaces insurance that provided you with an extended period of time after cancellation in which to discover loss and which did not terminate at the time this insurance became effective:

(1) We will not pay for any loss that occurred during the Policy Period of that prior insurance which is **discovered** by you during the extended period to **discover** loss, unless the amount of loss exceeds the Limit of Insurance and Deductible Amount of that prior insurance. In that case, we will pay for the excess loss subject to the terms and conditions of this policy.

(2) However, any payment we make for the excess loss will not be greater than the difference between the Limit of Insurance and Deductible Amount of that prior insurance and the Limit

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of Insurance shown in the Crime Coverage Part Declarations. We will not apply the Deductible Amount shown in the Crime Coverage Part Declarations to this excess loss.

b. The Other Insurance Condition **A.11.** does not apply to this Condition.

14. Records

You must keep records of all property covered under this insurance so we can verify the amount of any loss.

15. Recoveries

a. Any recoveries, whether effected before or after any payment under this insurance, whether made by us or you, shall be applied net of the expense of such recovery:

(1) First, to you in satisfaction of your covered loss in excess of the amount paid under this insurance;

(2) Second, to us in satisfaction of amounts paid in settlement of your claim;

(3) Third, to you in satisfaction of any Deductible Amount; and

(4) Fourth, to you in satisfaction of any loss not covered under this insurance.

b. Recoveries do not include any recovery:

(1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or

(2) Of original **securities** after duplicates of them have been issued.

16. Territory

This insurance covers loss that you sustain resulting directly from an **occurrence** taking place within the United States of America (including its territories and possessions), Puerto Rico and Canada.

17. Transfer of Your Rights of Recovery Against Others to Us

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

18. Valuation - Settlement

a. The value of any loss for purposes of coverage under this policy shall be determined as follows:

(1) Loss of **money** but only up to and including its face value. We will, at your option, pay for loss of **money** issued by any country other than the United States of America:

(a) At face value in the **money** issued by that country; or

(b) In the United States of America dollar equivalent determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **discovered**.

(2) Loss of **securities** but only up to and including their value at the close of business on the day the loss was **discovered**. We may, at our option:

(a) Pay the market value of such **securities** or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those **securities**; or

(b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the **securities**. However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

1) Market value of the **securities** at the close of business on the day the loss was **discovered**; or

2) The Limit of Insurance applicable to the **securities**.

(3) Loss of or damage to **other property** or loss from damage to the **premises** or its exterior for the replacement cost of the property without deduction for depreciation. However, we will not pay more than the least of the following:

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CARDENS018

(a) The cost to replace the lost or damaged property with property of comparable material and quality and used for the same purpose;

(b) The amount you actually spend that is necessary to repair or replace the lost or damaged property; or

(c) The Limit of Insurance applicable to the lost or damaged property.

With regard to Paragraphs **18.a.(3)(a)** through **18.a.(3)(c)**, we will not pay on a replacement cost basis for any loss or damage:

1) Until the lost or damaged property is actually repaired or replaced; and

2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

If the lost or damaged property is not repaired or replaced, we will pay on an actual cash value basis.

b. We will, at your option, settle loss or damage to property other than **money**:

(1) In the **money** of the country in which the loss or damage occurred; or

(2) In the United States of America dollar equivalent of the **money** of the country in which the loss or damage occurred determined by the rate of exchange published in *The Wall Street Journal* on the day the loss was **discovered**.

c. Any property that we pay for or replace becomes our property.

19. Changes in This Coverage Part

No change or modification of, or assignment of interest under this Coverage Part shall be effective except when made by us through a written endorsement to this policy.

B. CONDITIONS APPLICABLE TO INSURING AGREEMENT **A.**

1. Termination as to Any Employee

This Insuring Agreement terminates as to any **employee**:

a. As soon as:

(1) You; or

(2) Any of your partners, **members**, **managers**, officers, directors or trustees not in collusion with the **employee**;

learn of **theft** or any other dishonest act committed by the **employee** whether before or after becoming employed by you.

b. On the date specified in a notice mailed to the first Named Insured. That date will be at least 30 days after the date of mailing.

We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice.

2. Territory

We will pay for loss caused by any **employee** while temporarily outside the territory specified in the Territory Condition **A.16.** for a period of not more than 90 consecutive days.

C. CONDITIONS APPLICABLE TO INSURING AGREEMENT **B.**

1. Deductible Amount

The Deductible Amount does not apply to legal expenses paid under Insuring Agreement **B.**

2. Electronic and Mechanical Signatures

We will treat signatures that are produced or reproduced electronically, mechanically or by other means the same as handwritten signatures.

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3. Proof of Loss

You must include with your proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.

4. Territory

We will cover loss that you sustain resulting directly from an **occurrence** taking place anywhere in the world. Territory Condition **A.16.** does not apply to Insuring Agreement **B.**

D. CONDITIONS APPLICABLE TO INSURING AGREEMENT **C.** and **D.**

1. Armored Motor Vehicle Companies

Under Insuring Agreement **D.**, we will only pay for the amount of loss you cannot recover:

a. Under your contract with the armored motor vehicle company; and

b. From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

2. Special Limit of Insurance for Specified Property

We will only pay up to $5,000 for any one **occurrence** of loss of or damage to:

a. Precious metals (other than bullion), precious or semi-precious stones, pearls, furs, or completed or partially completed articles made of or containing such materials that constitute the principal value of such articles; or

b. Manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

E. CONDITIONS APPLICABLE TO INSURING AGREEMENT **E.**

1. Special Limit of Insurance for Specified Property

We will only pay up to $5,000 for any one **occurrence** of loss of or damage to manuscripts, drawings, or records of any kind, or the cost of reconstructing them or reproducing any information contained in them.

2. Territory

We will cover loss that you sustain resulting directly from an **occurrence** taking place anywhere in the world. Territory Condition **A.16.** does not apply to Insuring Agreement **E.**

F. CONDITIONS APPLICABLE TO INSURING AGREEMENT **H.**

1. Ownership of Property; Interests Covered

The property covered under this Insuring Agreement is limited to property:

a. That your **client** owns or leases; or

b. That your **client** holds for others whether or not your **client** is legally liable for the loss of such property.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization including your **client**. Any claim for loss that is covered under this Insuring Agreement must be presented by you. Ownership of Property; Interests Covered Condition **A.12.** does not apply to Insuring Agreement **H.**

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURED INITIATED TRANSFER EXCLUSION

This endorsement modifies insurance provided under the following:

CRIME COVERAGE

SECTION III – EXCLUSIONS is amended to include the following:

Insured Initiated Transfer

1. Insuring Agreement **E.** does not cover loss resulting directly or indirectly from you, your **employee** or any other natural person acting on your behalf having initiated, authorized or acted to assist in the transfer of **money**, **securities** or **other property**, regardless of whether such initiation, authorization or action was made voluntarily, under any real or perceived duress, or as the result of a communication (including, but not limited to, a legitimate or fraudulent email) directing such transfer.

2. Insuring Agreement **F.** does not cover loss resulting directly or indirectly from you, your **employee** or any other natural person acting on your behalf instructing a financial institution to pay or deliver **funds** from your **transfer account**, regardless of whether such instruction was issued voluntarily, under any real or perceived duress, or as the result of a communication (including, but not limited to, a legitimate or fraudulent email) directing such transfer.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ARIZONA CHANGES - CRIME COVERAGE

This endorsement modifies insurance provided under the following:

CRIME COVERAGE
CRIME EXPANDED COVERAGE (XC®)

A. The Concealment, Misrepresentation or Fraud Condition is replaced by the following:

Concealment, Misrepresentation or Fraud

We will not pay for any loss or damage in any case involving misrepresentations, omissions, concealment of facts or incorrect statements:

1. That are fraudulent;
2. That are material either to the acceptance of the risk, or to the hazard assumed by us; and
3. Where, if the true facts had been made known to us as required either by the application for the policy or otherwise, we in good faith would either:
   a. Not have issued the policy;
   b. Not have issued the policy in as large an amount; or
   c. Not have provided coverage with respect to the hazard resulting in the loss.

All other provisions of the policy remain unchanged except as herein expressly modified.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SUBSIDIARY COVERAGE ENDORSEMENT

This endorsement modifies insurance provided under the following:

CRIME COVERAGE

A. **SECTION I - INSURING AGREEMENTS** introductory paragraph is deleted in its entirety and replaced with the following:

Coverage is provided under the following Insuring Agreements for which a Limit of Insurance is shown in the Crime Coverage Part Declarations and applies to loss that you or a **subsidiary** sustain resulting directly from an **occurrence** taking place at any time which is **discovered** by you or a **subsidiary** during the Policy Period shown in the Common Policy Declarations or during the period of time provided in the Extended Period to Discover Loss Condition **A.7.**:

B. **SECTION II - DEFINITIONS, G.,1.** is amended to include the following:

Employee also means any **employee** of any **subsidiary**.

C. **SECTION II - DEFINITIONS** is amended to include the following:

Subsidiary means any entity in which the **named insured** owns, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors, trustees, managers (if a limited liability company) or equivalent positions and any such entity in its capacity as a **debtor in possession**.

All other provisions of the policy remain unchanged except as herein expressly modified.

GARDENS019

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ERISA INFLATION GUARD

This endorsement modifies insurance provided under the following:

CRIME COVERAGE

SECTION VI - CONDITIONS, 6. Employee Benefit Plans is amended to add the following:

If you **discover** loss sustained by one or more **employee benefit plan(s)** and the Limit of Insurance applicable to Insuring Agreement **A.** is less than the minimum limit of insurance for such plan(s) as required by the Employee Retirement Income Security Act of 1974 (ERISA), we shall increase the Limit of Insurance applicable to Insuring Agreement **A.** with regard to such plan(s) to equal the minimum amount of coverage required by ERISA. However, any increase in the Limit of Insurance afforded by this endorsement shall only be provided if the Limit of Insurance applicable to Insuring Agreement **A.** was equal to or greater than the minimum amount required by ERISA at the inception date of this policy as shown on the Common Policy Declarations for this policy regardless of whether this policy a new, renewal or replacement policy.

All other provisions of the policy remain unchanged except as herein expressly modified.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INCLUDE DESIGNATED AGENTS AS EMPLOYEES

This endorsement modifies insurance provided under the following:

CRIME COVERAGE

and applies to the Employee Theft Insuring Agreement:

SCHEDULE

Capacity of Agent	Limit of Insurance
PROPERTY MANAGER	$ 1,000,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

1. The definition of **employee** is amended to include each natural person, partnership or corporation you appoint in writing to act as your agent in the capacity shown in the Schedule while acting on your behalf or while in possession of covered property. These natural persons, partnerships or corporations are not covered for faithful performance of duty, even in the event that this insurance may have been amended by endorsement to provide such coverage on other **employees**. Only coverage for **theft** applies to the agents scheduled above.
2. Each such agent and the partners, officers and employees of that agent are considered to be, collectively, one **employee** for the purposes of this insurance. However, the Termination as to Any Employee Condition applies individually to each of them.
3. The most we will pay under this insurance for loss caused by an agent included as an **employee** by this endorsement is the Limit of Insurance shown in the Schedule. That Limit of Insurance is part of, not in addition to, the Limit of Insurance shown in the Declarations as applicable to the Employee Theft Insuring Agreement.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CHANGE IN CONTROL OF THE INSURED - NOTICE TO THE COMPANY

This endorsement modifies insurance provided under the following:

CRIME COVERAGE

1. The following Condition is added to **SECTION VI – CONDITIONS:**

   Change In Control - Notice To Us

   a. When you learn of a change in control, you shall give us written notice as soon as possible, but not to exceed 60 days from the date of such change in control.

   b. As used in this Condition, control means the power to determine the management or policy of the Insured or of a controlling holding company by virtue of voting stock ownership. A change in ownership of voting stock which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of more than 10% of such stock shall be presumed to result in a change of control for the purpose of the required notice.

   c. Failure to give the required notice shall result in cancellation of coverage for any loss involving a transferee, to be effective upon the date of the stock transfer.

   d. A change in ownership which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of more than 50% of the voting stock of the first Named Insured shall cause this coverage form to be cancelled as set forth in Paragraphs **2** and **3.**

2. The following Condition is added to **SECTION VI – CONDITIONS:**

   Cancellation of Coverage

   This coverage form is cancelled immediately upon the effective date of the first Named Insured being acquired by another entity. Acquired means a change in control where the power to determine the management or policy of the first Named Insured has changed by virtue of a change of ownership which results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of more than 50% of its voting stock, regardless as to the changes to the core functions of the acquired entity.

3. Paragraph **a.** of the Joint Insured Condition is replaced by the following:

   a. If more than one Insured is named in the Declarations, the first Named Insured will act for itself and for every other Insured for all purposes of this coverage form.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INCLUDE VOLUNTEER WORKERS AS EMPLOYEES

This endorsement modifies insurance provided under the following:

CRIME COVERAGE

The definition of **employee** is amended to include any non-compensated natural person:

1. Other than one who is a fund solicitor, while performing services for you that are usual to the duties of an **employee**; or
2. While acting as a fund solicitor during fund raising campaigns.

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EXHIBIT 22

I, Brooke Sortor, a Rule 30(b)(6) Representative of Focus HOA Management, LLC, hereby declare under penalty of perjury, that the following statements are true and correct to the best of my knowledge and belief:

1. I am over the age of eighteen, a resident of Maricopa County, Arizona, and am otherwise competent to make this declaration.

2. I currently serve as the VP of Management for Focus HOA Management, LLC ("Management"), which provides management services to the Gardens Gilbert Community Association ("Association"). I have served in this position since 7/4/17.

3. At all relevant times, the Association performed regular common-area maintenance, including but not limited to landscaping, trash removal, and pet-waste station servicing, through contracted vendors.

4. The Association's vendors performed these services on regular, scheduled intervals.

5. At all relevant times, the Association maintained the common areas in a clean and sanitary condition per the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460 (hereafter, the "Declaration" or "CC&Rs") standards.

6. The Board of Directors for the Association (hereafter, the "Board") or Management periodically reviewed vendor performance and requested corrections or additional work when appropriate.

7. At no time did the Board or Management ignore, refuse to consider, or purposely disregard any maintenance concern raised by Ms. Sandra Rodriguez ("Plaintiff").

8. The CC&Rs grant the Board and Management broad discretion to determine the timing, frequency, and manner of common-area maintenance. At no time did the Association act outside that discretionary authority, nor did it adopt or implement any standard of maintenance unique to Plaintiff or inconsistent with the governing documents.

9. Neither I, the Board, the Association, nor Management acted with intentional or unintentional disregard for resident safety, property conditions, or community standards.

10. Management nor the Association received any notice from a governmental agency, inspector, or regulatory body identifying unsafe, unclean, hazardous, or unsanitary conditions in the community.

11. No homeowner, resident, or vendor submitted any report identifying a dangerous condition in the common areas that the Association nor Management failed to address.

CARDENS010

12. Neither I nor anyone on the Board or in Management ever acted with any intent to harm, intimidate, target, or disadvantage Plaintiff.

13. The Board and Management's communications with Plaintiff, including email responses, maintenance updates, and compliance-related correspondence, were made in the normal course of Association business and were not intended to threaten, coerce, or cause emotional harm.

14. At no time did the Board, the Association, nor Management retaliate against Plaintiff for submitting complaints, petitions, or requests regarding community maintenance or Association operations.

15. Plaintiff was never denied any rights, services, or access to information or meetings based on her filing complaints, petitions, or records requests.

16. Neither the Association nor Management imposed any fines, penalties, suspensions, enforcement actions, or other adverse treatment against Plaintiff in response to her communications or complaints.

17. The Association or Management responded to each of Plaintiff's written requests for Association financial records to the extent that the requested documents existed and were subject to disclosure under A.R.S. § 33-1805 and Section 8.17 of the CC&Rs.

18. When a requested record did not exist, Plaintiff was informed that the Association did not possess such records.

CARDENS020

19. All actions by the Board and Management regarding Plaintiff were undertaken in accordance with the CC&Rs, Arizona law, and standard community-association operating procedures.

EXECUTED this 14 day of November 2025.

Brooke Sortor
In Her Capacity as a Rule 30(b)(6) Representative of
Focus HOA Management, LLC

EXHIBIT 23

I, Brooke Sortor, an individually named defendant, hereby declare under penalty of perjury, that the following statements are true and correct to the best of my knowledge and belief:

1. I am over the age of eighteen, a resident of Maricopa County, Arizona, and am otherwise competent to make this declaration.

2. I currently serve as the VP of Management for Focus HOA Management, LLC ("Management"), which provides management services to the Gardens Gilbert Community Association ("Association"). I have served in this position since 7/4/2017.

3. In my role with Management, I understood that the Association contracted with vendors to perform regular common-area maintenance, including landscaping, trash removal, and pet-waste station servicing.

4. From what I personally observed and reviewed in my management role, the Association's vendors performed these services on regular, scheduled intervals.

5. Based on my personal knowledge, the Association maintained the common areas in a clean and sanitary condition per the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460 (hereafter, the "Declaration" or "CC&Rs") standards.

6. To my knowledge, vendor performance was periodically reviewed, and when appropriate, corrections or additional work were requested by Management or the Board of Directors for the Association (hereafter, the "Board").

7. At no time did I, personally, ignore, refuse to consider, or purposely disregard any maintenance concern raised by Ms. Sandra Rodriguez ("Plaintiff").

8. I understand that the CC&Rs grant the Board discretion regarding the timing and manner of common-area maintenance. Based on my personal actions and involvement, I did not at any time act outside that discretionary authority, nor did I treat Plaintiff differently from any other homeowner.

9. I did not act with intentional or unintentional disregard for resident safety, property conditions, or community standards.

10. I never received any notice from any governmental agency, inspector, or regulatory body identifying unsafe, hazardous, or unsanitary conditions in the common areas.

11. I never ignored or left unaddressed any concern regarding dangerous conditions in the common areas.

12. I never acted with intent to harm, intimidate, target, or disadvantage Plaintiff.

13. Any communications I had with Plaintiff, including emails or responses made in the course of my management duties, were made for legitimate Association business purposes and were not intended to threaten, coerce, or cause emotional harm.

14. I did not retaliate against Plaintiff for submitting complaints, petitions, or requests regarding community maintenance or Association operations.

15. I never denied Plaintiff any rights, services, or access to information or meetings because of her complaints or records requests.

16. I did not personally impose or seek to impose fines, penalties, suspensions, enforcement actions, or any other adverse treatment against Plaintiff in response to her communications.

17. To the extent I was involved in responding to Plaintiff's records requests, I responded or assisted in responding in accordance with A.R.S. § 33-1805 and Section 8.17 of the CC&Rs, and only to the extent records existed and were subject to disclosure.

18. When a record requested by Plaintiff did not exist, I informed her, or caused her to be informed, that no such record existed.

19. All of my actions related to Plaintiff were undertaken in good faith, within the scope of my responsibilities, and consistent with the governing documents and Arizona law.

EXECUTED this 14 day of November 2025.

Brooke Sortor, Community Manager
Focus HOA Management, LLC
In Her Individual Capacity as a Named Defendant

EXHIBIT 24

I, Harman Cadis, an individually named defendant, hereby declare under penalty of perjury, that the following statements are true and correct to the best of my knowledge and belief:

1. I am over the age of eighteen, a resident of Maricopa County, Arizona, and am otherwise competent to make this declaration.
2. I currently serve as the Owner for Focus HOA Management, LLC ("Management"), which provides management services to the Gardens Gilbert Community Association ("Association"). I have served in this position since 1/1/2010.
3. In my role with Management, I understood that the Association contracted with vendors to perform regular common-area maintenance, including landscaping, trash removal, and pet-waste station servicing.
4. From what I personally observed and reviewed in my management role, the Association's vendors performed these services on regular, scheduled intervals.
5. Based on my personal knowledge, the Association maintained the common areas in a clean and sanitary condition per the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460 (hereafter, the "Declaration" or "CC&Rs") standards.
6. To my knowledge, vendor performance was periodically reviewed, and when appropriate, corrections or additional work were requested by Management or the Board of Directors for the Association (hereafter, the "Board").

GARDENS205

7. At no time did I, personally, ignore, refuse to consider, or purposely disregard any maintenance concern raised by Ms. Sandra Rodriguez ("Plaintiff").
8. I understand that the CC&Rs grant the Board discretion regarding the timing and manner of common-area maintenance. Based on my personal actions and involvement, I did not at any time act outside that discretionary authority, nor did I treat Plaintiff differently from any other homeowner.
9. I did not act with intentional or unintentional disregard for resident safety, property conditions, or community standards.
10. I never received any notice from any governmental agency, inspector, or regulatory body identifying unsafe, hazardous, or unsanitary conditions in the common areas.
11. I never ignored or left unaddressed any concern regarding dangerous conditions in the common areas.
12. I never acted with intent to harm, intimidate, target, or disadvantage Plaintiff.
13. Any communications I had with Plaintiff, including emails or responses made in the course of my management duties, were made for legitimate Association business purposes and were not intended to threaten, coerce, or cause emotional harm.
14. I did not retaliate against Plaintiff for submitting complaints, petitions, or requests regarding community maintenance or Association operations.
15. I never denied Plaintiff any rights, services, or access to information or meetings because of her complaints or records requests.

GARDENS20

16. I did not personally impose or seek to impose fines, penalties, suspensions, enforcement actions, or any other adverse treatment against Plaintiff in response to her communications.

17. To the extent I was involved in responding to Plaintiff's records requests, I responded or assisted in responding in accordance with A.R.S. § 33-1805 and Section 8.17 of the CC&Rs, and only to the extent records existed and were subject to disclosure.

18. When a record requested by Plaintiff did not exist, I informed her, or caused her to be informed, that no such record existed.

19. All of my actions related to Plaintiff were undertaken in good faith, within the scope of my responsibilities, and consistent with the governing documents and Arizona law.

EXECUTED this 14th day of November, 2025.

Harman Cadis Digitally signed by Harman Cadis Date: 2025.11.14 10:31:31 -07'00'

Harman Cadis, Community Manager
Focus HOA Management, LLC
In His Individual Capacity as a Named Defendant

GARDENS207

EXHIBIT 25

I, Anna Schultz, a Rule 30(b)(6) Representative of Gardens Gilbert Community Association hereby declare under penalty of perjury, that the following statements are true and correct to the best of my knowledge and belief:

1. I am over the age of eighteen, a resident of Maricopa County, Arizona, and am otherwise competent to make this declaration.

2. I currently serve as the President of the Board of Directors (hereafter, the "Board") for the Gardens Gilbert Community Association (the "Association"). I have served on the Board since 2020 and as President since 2023.

3. At all relevant times, the Association performed regular common-area maintenance, including but not limited to landscaping, trash removal, and pet-waste station servicing, through contracted vendors.

4. The Association's vendors performed these services on regular, scheduled intervals.

5. At all relevant times, the Association maintained the common areas in a clean and sanitary condition per the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460 (hereafter, the "Declaration" or "CC&Rs") standards.

6. The Board periodically reviewed vendor performance and requested corrections or additional work when appropriate.

7. At no time did the Board or management ignore, refuse to consider, or purposely disregard any maintenance concern raised by Ms. Sandra Rodriguez ("Plaintiff").

8. The CC&Rs grant the Board broad discretion to determine the timing, frequency, and manner of common-area maintenance. At no time did the Association act outside that discretionary authority, nor did it adopt or implement any standard of maintenance unique to Plaintiff or inconsistent with the governing documents.

9. Neither I, the Board, nor the Association acted with intentional or unintentional disregard for resident safety, property conditions, or community standards.

10. The Association did not receive any notice from a governmental agency, inspector, or regulatory body identifying unsafe, unclean, hazardous, or unsanitary conditions in the community.

11. No homeowner, resident, or vendor submitted any report identifying a dangerous condition in the common areas that the Association failed to address.

12. Neither I nor any member of the Board ever acted with intent to harm, intimidate, target, or disadvantage Plaintiff.

13. The Board's communications with Plaintiff, including email responses, maintenance updates, and compliance-related correspondence, were made in the normal course of Association business and were not intended to threaten, coerce, or cause emotional harm.

14. At no time did the Board or Association retaliate against Plaintiff for submitting complaints, petitions, or requests regarding community maintenance or Association operations.

15. Plaintiff was never denied any rights, services, or access to information or meetings based on her filing complaints, petitions, or records requests.

16. The Association did not impose any fines, penalties, suspensions, enforcement actions, or adverse treatment against Plaintiff in response to her communications or complaints.

17. The Association responded to each of Plaintiff's written requests for Association financial records to the extent that the requested documents existed and were subject to disclosure under A.R.S. § 33-1805 and Section 8.17 of the CC&Rs.

18. When a requested record did not exist, Plaintiff was informed that the Association did not possess such records.

19. All actions by the Board and management regarding Plaintiff were undertaken in accordance with the CC&Rs, Arizona law, and standard community-association operating procedures.

EXECUTED this 14 day of November, 2025.

Anna Schultz, Board of Directors President
In Her Capacity as a Rule 30(b)(6) Representative of
Gardens Gilbert Community Association

EXHIBIT 26

I, Anna Schultz, an individually named defendant, hereby declare under penalty of perjury, that the following statements are true and correct to the best of my knowledge and belief:

1. I am over the age of eighteen, a resident of Maricopa County, Arizona, and am otherwise competent to make this declaration.

2. I currently serve as the President of the Board of Directors (hereafter, the "Board") for the Gardens Gilbert Community Association (the "Association"). I have served on the Board since 2020 and as President since 2023.

3. In my role on the Board, I understood that the Association contracted with vendors to perform regular common-area maintenance, including landscaping, trash removal, and pet-waste station servicing.

4. From what I personally observed and reviewed as a Board member, vendors performed these services on regular, scheduled intervals.

5. Based on my personal knowledge, the Association maintained the common areas in a clean and sanitary condition per the Declaration of Covenants, Conditions, Restrictions, and Easements for The Gardens recorded at Document No. 2002-0039460 (hereafter, the "Declaration" or "CC&Rs") standards.

6. During the time I served on the Board, I personally participated in periodic reviews of vendor performance and, when appropriate, supported or requested corrections or additional work.

7. At no time did I, personally, ignore, refuse to consider, or purposely disregard any maintenance concern raised by Ms. Sandra Rodriguez ("Plaintiff").

8. I understand that the CC&Rs grant the Board discretion regarding the timing and manner of common-area maintenance. Based on my personal actions and involvement, I did not at any time act outside that discretionary authority, nor did I treat Plaintiff differently from any other homeowner.

9. I did not act with intentional or unintentional disregard for resident safety, property conditions, or community standards.

10. I never received any notice from any governmental agency, inspector, or regulatory body identifying unsafe, hazardous, or unsanitary conditions in the common areas.

11. I never ignored or left unaddressed any concern regarding dangerous conditions in the common areas.

12. I never acted with intent to harm, intimidate, target, or disadvantage Plaintiff.

13. Any communications I had with Plaintiff, including emails or responses made in the course of my Board duties, were made for legitimate Association business purposes and were not intended to threaten, coerce, or cause emotional harm.

14. I did not retaliate against Plaintiff for submitting complaints, petitions, or requests regarding community maintenance or Association operations.

15. I never denied Plaintiff any rights, services, or access to information or meetings because of her complaints or records requests.

16. I did not personally impose or seek to impose fines, penalties, suspensions, enforcement actions, or any other adverse treatment against Plaintiff in response to her communications.

17. To the extent I was involved in responding to Plaintiff's records requests, I responded or assisted in responding in accordance with A.R.S. § 33-1805 and Section 8.17 of the CC&Rs, and only to the extent records existed and were subject to disclosure.

18. When a record requested by Plaintiff did not exist, I informed her, or caused her to be informed, that no such record existed.

19. All of my actions related to Plaintiff were undertaken in good faith, within the scope of my responsibilities, and consistent with the governing documents and Arizona law.

EXECUTED this 14 day of November, 2025.

Anna Schultz, Board of Directors President
Gardens Gilbert Community Association
In Her Individual Capacity as a Named Defendant