



SEQUENCE: 20190950495
No. Pages: 32
4/5/2019 2:11 PM



F. ANN RODRIGUEZ, RECORDER
Recorded By: VJG (e-recording)

When Recorded Mail/Deliver To:

Goldschmidt|Shupe, PLLC
6700 N. Oracle Rd., Suite 240
Tucson, AZ 85704

**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
CANOA SECA ESTATES II**

**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
CANOA SECA ESTATES II**

Table of Contents

ARTICLE 1 DEFINITIONS	2
Section 1.1 ACT	2
Section 1.2 ARCHITECTURAL COMMITTEE	2
Section 1.3 ASSESSMENTS	2
Section 1.4 ASSOCIATION	2
Section 1.5 CC&Rs OR DECLARATION	2
Section 1.6 COMMON AREA	2
Section 1.7 IMPROVEMENT	3
Section 1.8 FIRST MORTGAGEE	3
Section 1.9 GOVERNING DOCUMENTS	3
Section 1.10 LOT	3
Section 1.11 MEMBER	3
Section 1.12 MORTGAGE	3
Section 1.13 OWNER	3
Section 1.14 PERSON	3
Section 1.15 PLAT	3
Section 1.16 PROPERTIES	3
Section 1.17 RULES AND REGULATIONS	3
Section 1.18 SCENIC VIEW or VIEW	4
Section 1.19 SINGLE FAMILY	4
Section 1.20 SINGLE FAMILY RESIDENCE	4
Section 1.21 STRUCTURE	4
Section 1.22 VISIBLE FROM NEIGHBORING PROPERTY	4
ARTICLE 2 SCOPE OF GOVERNING DOCUMENTS	4
ARTICLE 3 COMMON AREAS	4
Section 3.1 Ownership Vested in Association	4
Section 3.2 Conveyance of Owners Rights	5
Section 3.3 Conveyance of Easements and Rights-of-Way	5
ARTICLE 4 EASEMENTS AND ENCROACHMENTS	5

Section 4.1 Easements for Encroachments	5
Section 4.2 Drainage Easements	5
Section 4.3 Utility Easements	5
Section 4.4 Permissible Encroachments	5
Section 4.5 Golf Course Easement	5
ARTICLE 5 THE ASSOCIATION	6
Section 5.1 Responsibilities of the Association	6
Section 5.1.1 Streets and Sidewalks	6
Section 5.1.2 Common Area Landscape	6
Section 5.1.3 Street Signs and Improvements	6
Section 5.1.4 Taxes and Assessments	6
Section 5.1.5 Insurance	6
Section 5.1.6 Independent Contractors	6
Section 5.1.7 Liability Insurance	6
Section 5.1.8 Purchases	6
Section 5.1.9 Enforcement	6
Section 5.1.10 Cash Reserves	6
Section 5.1.11 Utility Services	6
Section 5.1.12 Accomplishing Obligations	6
Section 5.2 Restrictions on Road Closure	6
Section 5.3 By-Laws and Articles of Incorporation	7
Section 5.4 Trash Storage and Collection	7
ARTICLE 6 MEMBERSHIP	7
ARTICLE 7 VOTING RIGHTS	7
Section 7.1 Voting Rights	7
Section 7.2 Suspension of Voting Rights	7
ARTICLE 8 ASSESSMENTS	8
Section 8.1 Power to Levy Assessments	8
Section 8.2 Annual Assessments	8
Section 8.2.1 Establishing the Annual Assessments	8
Section 8.2.2 Increases in the Assessments	8
Section 8.2.3 Notice to Owners of Annual Assessments	8
Section 8.2.4 Deficiencies in the Operating Account	8
Section 8.2.5 Acceleration of Payment of Annual Assessment	9
Section 8.2.6 Due Dates for Annual Assessments	9

Section 8.3 Special Assessments.....	9
Section 8.4 Uniform Rate of Assessment.....	9
Section 8.5 Reimbursement Assessments.....	9
Section 8.6 Effect of Nonpayment of Assessments; Remedies of the Association.....	10
Section 8.6.1 Enforce Obligations.....	10
Section 8.6.2 Additional Charges.....	10
Section 8.7 Application of Payments.....	11
Section 8.8 Statement of Assessment Lien.....	11
Section 8.9 No Exemption of Owner.....	11
Section 8.10 Right to Foreclose.....	11
Section 8.11 Subordination of the Lien to the First Mortgagee.....	11
Section 8.12 Membership in Green Valley Recreation. Inc.....	12
ARTICLE 9 INSURANCE OF COMMON AREAS.....	12
Section 9.1 Scope of Coverage.....	12
Section 9.2 Repair and Replacement of Damaged Property.....	12
Section 9.3 Owners Responsibilities for Insurance.....	13
Section 9.4 Payment of Deductible.....	13
ARTICLE 10 OWNERS RESPONSIBILITIES.....	13
Section 10.1 Scope of Responsibilities.....	13
Section 10.2 Maintenance on the Lot.....	13
Section 10.3 Tree Roots.....	13
Section 10.4 Conformity to Use Restrictions.....	13
Section 10.5 Common Area Cleanup.....	14
Section 10.6 Permission to Use Common Area.....	14
Section 10.7 Inspection of Lots.....	14
Section 10.8 Owners Liability.....	14
Section 10.9 Disputes.....	14
ARTICLE 11 ARCHITECTURAL COMMITTEE.....	15
Section 11.1 Composition of Committee.....	15
Section 11.2 Review by Committee.....	15
Section 11.3 Procedures for Approval.....	15
Section 11.4 Additions and Modifications.....	15
Section 11.5 Minimum Criteria for Plans.....	15
Section 11.6 No Responsibility for Defects.....	16
Section 11.7 Conflict of Interest.....	16

Section 11.8 Nonconforming Structures	16
Section 11.9 Enforcement of Violations	16
Section 11.10 Appeal of Decisions	16
ARTICLE 12 USE RESTRICTIONS	16
Section 12.1 Land Use and Building Type	16
Section 12.2 Exterior Paint Colors	17
Section 12.3 Antennas and Exterior Additions	17
Section 12.3.1 Satellite Dishes	17
Section 12.3.2 Approval	17
Section 12.4 Solar Energy Devices	17
Section 12.5 Flags and Flagpoles	17
Section 12.6 Fences, Walls and Hedges	17
Section 12.7 Equipment	17
Section 12.8 Lights	18
Section 12.9 Business Use	18
Section 12.10 Leasing	18
Section 12.11 Temporary Structures	18
Section 12.12 Rubbish	18
Section 12.13 Noise	19
Section 12.14 Trees, Shrubs and Other Vegetation	19
Section 12.14.1 Requirements for Trees, Shrubs and Other Landscaping	19
Section 12.14.2 Exceptions to Height Restrictions	19
Section 12.14.3 Variances to Height Restrictions	19
Section 12.15 Vehicle Parking and Storage	19
Section 12.15.1. Vehicle Parking	19
Section 12.15.2. Recreational Vehicle Storage	20
Section 12.15.3. Inoperable Vehicles	20
Section 12.15.4. Vehicle Parking Variances	20
Section 12.16 Drainage-Ways	20
Section 12.17 Native Growth	20
Section 12.18 Signs	20
Section 12.19 Clotheslines	20
Section 12.20 Animals	21
ARTICLE 13 PARTY WALLS	21
Section 13.1 General Rules of Law to Apply	21

Section 13.2 Alterations	21
Section 13.3 Sharing of Repair and Maintenance.....	21
Section 13.4 Destruction by Fire or Other Casualty	21
Section 13.5 Weatherproofing	21
Section 13.6 Conflict Resolution Regarding Party Walls.....	21
ARTICLE 14 GENERAL PROVISIONS.....	22
Section 14.1 Enforcement by an Owner	22
Section 14.2 Enforcement by the Association.....	22
Section 14.2.1 Means of Enforcement.....	22
Section 14.2.2 No Obligation to Enforce.....	23
Section 14.2.3 Rights Are Cumulative.....	23
Section 14.2.4 Delay or Omission is Not a Waiver.....	23
Section 14.2.5 Breach Does Not Invalidate First Mortgage.....	23
Section 14.3 Attorney Fees	23
Section 14.4 Severability.....	24
Section 14.5 Amendment	24
Section 14.6 Age Restrictions	24
Section 14.7 Age Restriction Exemption.....	24
Section 14.8 Term.....	24
Section 14.9 Captions	25

**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
CANOA SECA ESTATES II**

This Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Canoa Seca Estates II (this "Declaration") is made this 1st day of March 2019, by the Owners of real property described as follows:

Lots 1 through 133 and Common Areas A and B of Canoa Seca Estates II, a subdivision of Pima County, Arizona, as shown on the plat recorded in Book 43 of Maps and Plats at page 19, Office of the Pima County Recorder (the "Properties").

RECITALS

WHEREAS, the Declaration of Establishment of Conditions, Covenants and Restrictions for Canoa Seca Estates II ("Original Declaration") was recorded on October 4, 1989, in Docket 8636 at Page 1126, et. seq., records of County Recorder for Pima County, Arizona; and

WHEREAS, an Amendment to the Declaration of Establishment of Conditions, Covenants and Restrictions for Canoa Seca Estates II, was recorded November 17, 1992, in Docket 9419 at Page 197, et. seq., records of County Recorder for Pima County, Arizona, and subsequently re-recorded on December 17, 1992, in Docket 9440 at page 326 et. seq., records of County Recorder for Pima County, Arizona; and

WHEREAS, an Amendment to the Declaration of Establishment of Conditions, Covenants and Restrictions for Canoa Seca Estates II, was recorded September 1, 1998, in Docket 10872 at Page 996, et. seq., records of County Recorder for Pima County, Arizona; and

WHEREAS, the Declaration of Establishment of Conditions, Covenants and Restrictions for Canoa Seca Estates II, and all amendments thereto were amended and restated in the entirety based on the Certificate and attached Declaration of Establishment of Conditions, Covenants and Restrictions for Canoa Seca Estates II, recorded January 13, 1999, in Docket 10962 at Page 3141, et. seq., records of County Recorder for Pima County, Arizona; and

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Canoa Seca Estates II (the "Current Declaration"), was recorded on April 20, 2004, in Docket 12284 at Page 3167, et. seq., records of County Recorder for Pima County, Arizona; and

WHEREAS, an amendment to Section 12.15 of the Current Declaration was recorded February 10, 2016, at Sequence No. 20160410062, records of County Recorder for Pima County, Arizona; and

WHEREAS, Article XIV, Section 5 of the Current Declaration provides that it may be amended with the approval of the Owners of at least 51% of the Lots, and provided that the amendment is in writing signed by the President and Secretary of the Canoa Seca Estates II, Inc. attesting that the amendment was approved by the requisite number of Owners, and recorded with the Pima County Recorder's Office; and

WHEREAS, Owners of 51% of the Lots voted affirmatively to amend Section 3.1, Section 5.4, Section 10.6, Article 11, Section 12.2, Section 12.5, Section 12.8, Section 12.10, Section 12.14, Section 12.15, Section 12.18, Section 12.19, Section 13.6, Section 14.2.1.8, and Section 14.6 of the Current Declaration as amended; and

WHEREAS, this Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Canoa Seca Estates II is intended to and does hereby restate, supersede and completely replace the Current Declaration and the 2016 amendment thereto, and is a compendium of the recorded instruments recited above, and includes the amendments most recently adopted by the Owners as described above.

NOW THEREFORE, the Properties will be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Properties. These easements, covenants, restrictions, and conditions will run with title to any Lot within the Properties, will bind all parties having or acquiring any right, title, or interest in the Properties, and will inure to the benefit of each such Owner.

**ARTICLE 1
DEFINITIONS**

- Section 1.1** **ACT** refers to the A.R.S. §33-1801 et seq., which is the Planned Communities Act, as amended from time to time.
- Section 1.2** **ARCHITECTURAL COMMITTEE** means the Committee established by the Board pursuant to Section 11.1.
- Section 1.3** **ASSESSMENTS** means the Annual, Special and Reimbursement Assessments, together with any other sums, which may become due to the Association by an Owner and includes late charges, interest, fines and penalties, attorney fees, and any other costs.
- Section 1.4** **ASSOCIATION** means Canoa Seca Estates II, Inc.
- Section 1.5** **CC&Rs OR DECLARATION** means this Declaration, as amended from time to time pursuant to the procedures set forth herein. The Declaration is the primary governing document of the Association and is formally known as the Declaration of Covenants, Conditions and Restrictions.
- Section 1.6** **COMMON AREA** means all real property owned by the Association for the use and enjoyment of the Owners subject to covenants and restrictions set forth in the Governing Documents. The Common Area is depicted on the plat as Common Area A and Common Area B.

- Section 1.7** **IMPROVEMENT** means any buildings, garages, homes, outbuildings, patios, swimming pools, walls, driveways, excavation, landscaping, fixtures, sunshades, fences, awnings, any other structure or any decorative items placed on the Lot, which is Visible from Neighboring Property.
- Section 1.8** **FIRST MORTGAGEE** refers to a lender which has encumbered the Lot with a note secured by a mortgage or deed of trust, which is recorded against the Lot, and is prior to any other lien or encumbrance on the lot, except for property taxes and any other governmental assessment.
- Section 1.9** **GOVERNING DOCUMENTS** refers to this Declaration, the Articles of Incorporation, the By-Laws of the Association and any Rules and Regulations adopted by the Board.
- Section 1.10** **LOT** means the numbered plots of land shown on the plat, including any new Lot created by combining two or more adjacent Lots. Combined Lots are considered one Lot for all purposes, including voting rights and any assessments provided for herein. A "Lot" does not include the Common Areas.
- Section 1.11** **MEMBER** means the Owner of a Lot who is entitled to membership in the Association, who has the privilege of using and enjoying the Common Areas, who has certain voting rights and who has a duty to pay assessments for these privileges, as further set forth in the Governing Documents.
- Section 1.12** **MORTGAGE** refers to any mortgage, deed of trust or other security instrument by which a Lot or any part of a Lot is encumbered.
- Section 1.13** **OWNER** means the record owner, whether one or more persons or entities, of the title to any Lot, excluding those persons having such interest merely as security for a mortgage. Each Owner is liable for the acts of his/her family, tenants, guests and invitees.
- Section 1.14** **PERSON** includes a corporation, company, partnership, firm, association or society, as well as a natural person.
- Section 1.15** **PLAT** means the map or Plat of record in the Office of the County Recorder of Pima County, Arizona, in Book 43 of Maps and Plats at page 19.
- Section 1.16** **PROPERTIES** means the real property under the jurisdiction of the Association as set forth on the plat.
- Section 1.17** **RULES AND REGULATIONS** means those policies and procedures adopted by the Board, which interpret the provisions of the Governing Documents or govern the conduct and actions of Owners, tenants, visitors, and guests on Lots and the Common Areas and which are not otherwise covered in this Declaration. Rules and Regulations, when adopted by the Board, have the same force and effect as the

Restrictions set forth in this Declaration and may be enforced in law or in equity. The Rules are binding on all Owners, Lots and all other Persons, including the Association, using any portion of the Properties.

- Section 1.18** **SCENIC VIEW or VIEW** is defined as the view of the Santa Rita Mountains, which are East of Green Valley, Arizona, from patios and other entertainment areas on any other Lot.
- Section 1.19** **SINGLE FAMILY** refers to a group of one or more persons each related to the other by blood, marriage or legal adoption; or a group of two or less persons who are not related, but who maintain a common household on a Lot. This excludes a caretaker hired to provide services to the residents.
- Section 1.20** **SINGLE FAMILY RESIDENCE** means an improvement constructed on the Lot in which a Single Family resides.
- Section 1.21** **STRUCTURE** means anything constructed, erected, installed or placed on a Lot, which is located on the ground or is attached to something located on the ground and which is Visible from Neighboring Property.
- Section 1.22** **VISIBLE FROM NEIGHBORING PROPERTY** means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing at ground level on any part of any other Lot or the Common Areas.

ARTICLE 2 SCOPE OF GOVERNING DOCUMENTS

The Governing Documents are intended to regulate and control the use of the Lots and the Common Areas for the benefit of all Owners, tenants, guests and invitees.

ARTICLE 3 COMMON AREAS

Section 3.1 Ownership Vested in Association

Ownership of the Common Areas is vested in the Association, subject to the easements created by the Association, in the plat or as set forth in the Declaration, for purposes deemed necessary for the full use of the Properties. Common Areas are intended for use as public utility easements, drainage-ways, streets, and open areas. Every Owner has the right to use and enjoy the Common Areas. This right is appurtenant to and passes with the title to every Lot. Such right does not include use by lot owners resulting in damage to, or making changes of any kind to the common areas. Also see sections 10.5 and 10.6 regarding damage to common areas. The Association may make changes or additions to the Common Areas.

Section 3.2 Conveyance of Owners Rights

Any sale or transfer of title to any Lot transfers all rights to use the Common Areas.

Section 3.3 Conveyance of Easements and Rights-of-Way

The Association has the right to grant to any Person easements or rights-of-way, in, on, over, or under any Common Areas for the purpose of constructing, erecting, operating or maintaining roads, streets, walks, pathways, driveways, temporary overhead or permanent underground lines for utilities or other facilities such as sewers and storm drains.

ARTICLE 4 EASEMENTS AND ENCROACHMENTS

Section 4.1 Easements for Encroachments

Each Lot and the Common Areas are subject to the easements shown on the Plat and to a general easement for encroachments. This general easement for encroachments includes, but is not limited to, a four-foot easement, where necessary, in favor of adjacent Lot Owners for the repair and maintenance of their Lot.

Section 4.2 Drainage Easements

There is a drainage easement upon, across, over and under each Lot for the benefit of all other Lots.

Section 4.3 Utility Easements

There is an easement for installation, replacement, operation, repair and maintenance of all utilities, including underground cables, sewers, and storm drains.

Section 4.4 Permissible Encroachments

Each Owner acknowledges and agrees that a Single Family Residence and any improvement on a Lot may encroach upon the Common Areas or other Lots. Such encroachments are permissible and each Owner, upon recordation of the deed to the Lot, consents and agrees that the title to the land lying within such encroachments, belongs to the Owner of the Lot upon which the majority of the encroaching structure is built.

Section 4.5 Golf Course Easement

An easement is granted across any roadways adjacent to the nearby golf course. This easement is limited to reasonable and necessary access for the play of golf and is solely for the benefit of users of the golf course.

ARTICLE 5 THE ASSOCIATION

Section 5.1 Responsibilities of the Association

The Association is responsible for the protection, improvement, alteration, maintenance, repair, replacement, administration, management, and operation of the Common Areas. The Association is specifically responsible for:

Section 5.1.1 Streets and Sidewalks - maintaining the streets and sidewalks located on the Common Areas;

Section 5.1.2 Common Area Landscape - maintaining the landscaped portions of the Common Areas including any monuments;

Section 5.1.3 Street Signs and Improvements - maintaining, replacing, restoring or reconstructing street signs and other improvements constructed on the Common Areas;

Section 5.1.4 Taxes and Assessments - paying real estate taxes, Assessments and other charges on those portions of the Common Areas owned by the Association;

Section 5.1.5 Insurance - insuring all Improvements which the Association is obligated to maintain against damage by casualty;

Section 5.1.6 Independent Contractors - hiring, firing, supervising and paying all independent contractors hired by the Association;

Section 5.1.7 Liability Insurance - maintaining liability insurance, which the Association considers necessary to protect the Members and the Board from liability for conditions existing and events occurring on the Common Areas, including, but not limited to, errors and omissions insurance for the Board and Officers of the Association;

Section 5.1.8 Purchases - purchasing all goods, supplies, labor and services reasonably necessary for the performance of these obligations;

Section 5.1.9 Enforcement - enforcing the Governing Documents;

Section 5.1.10 Cash Reserves - establishing and maintaining such cash reserves as the Board considers necessary for the maintenance and repair of the Improvements for which it is responsible and for unforeseen contingencies;

Section 5.1.11 Utility Services - paying all utility services for Common Area facilities;

Section 5.1.12 Accomplishing Obligations - entering into agreements and taking actions which are necessary for the accomplishment of the preceding obligations.

Section 5.2 Restrictions on Road Closure

Any block or closure of any private street within the Properties will be for a limited period of time for the purpose of making repairs to streets or improvements lying beneath the streets.

Section 5.3 By-Laws and Articles of Incorporation

The manner in which the Association carries out its responsibilities is controlled by the Governing Documents. If there is any conflict between any of the Governing Documents, the Declaration will control. If there is a conflict between the Articles of Incorporation and the By-Laws, the Articles will control.

Section 5.4 Trash Storage and Collection

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

ARTICLE 6 MEMBERSHIP

Every person who is an Owner of a Lot is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of any Lot.

ARTICLE 7 VOTING RIGHTS

Section 7.1 Voting Rights

All Members are entitled to vote on those matters, which, under the Governing Documents, require a vote of the membership. Each Member has one vote for each Lot owned by that Member. If a Lot is owned by more than one Person, the co-owners must agree among themselves on how to cast the vote allocated to that Lot. If they cannot agree, the vote will be void. Cumulative voting is not permitted.

Section 7.2 Suspension of Voting Rights

Voting rights will be suspended for non-payment of any Assessment and, after notice and an opportunity for a hearing, if the Owner is in violation of any of the provisions of the Governing Documents.

ARTICLE 8 ASSESSMENTS

Section 8.1 Power to Levy Assessments

The Association, through its Board, has the power to levy Assessments against the Owners and the Lots in accordance with the Governing Documents. Each Owner, upon the recordation of a deed or other instrument reflecting a transfer of any interest in any Lot, whether or not it is stated in that deed, covenants and agrees to pay to the Association:

- (1) Annual Assessments or charges;
- (2) Special Assessments; and
- (3) Reimbursement Assessments.

All Assessments, together with interest, late fees, costs, litigation expenses and reasonable attorney fees, will be a charge and a continuing lien against the Lot. Delinquent Assessments, together with interest, late fees, costs, and reasonable attorney fees, are the personal obligation of the Owner of the Lot.

Section 8.2 Annual Assessments

Section 8.2.1 Establishing the Annual Assessments

The Board will determine the amount of the Annual Assessment based upon the operating budget of the Association. The annual Assessment will include a reasonable amount for reserves, as determined by the Board.

Section 8.2.2 Increases in the Assessments

The amount of the annual Assessment may not be increased more than 20% over the amount of the previous year's Assessment (or such larger percentage as provided for in the Act, A.R.S. §33-1801, et. Seq.) without the approval of a majority of the Members of the Association (or in compliance with any other voting requirements set forth in the Act, as amended from time to time).

Section 8.2.3 Notice to Owners of Annual Assessments

The Board will provide notice to the Owners of any change to the amount of the Annual Assessment at least 30 days before January 1 of each year. The Board may determine that the Annual Assessment is payable in equal monthly installments or on any other periodic basis. If the Board does not set the amount of the annual Assessment by December 1 of each year, then any increase goes into effect 30 days after notice is provided to the Owners.

Section 8.2.4 Deficiencies in the Operating Account

If there is a deficiency in the operating account in any fiscal year and if the Board did not increase the amount of that year's Assessments by 20% on January 1 of that year, the Board has the right to increase the amount of the remainder of the year's Assessments up to the 20% of the previous year's Assessment in order to fund the shortfall.

Section 8.2.5 Acceleration of Payment of Annual Assessment

In the event that the Board determines that the annual Assessment is payable in installments, at such time as any Owner is delinquent in the payment of such installments, the Board has the right to accelerate the balance of the year's Assessment, all of which will be due within thirty days of written notice provided by the Board to the Owner.

Section 8.2.6 Due Dates for Annual Assessments

Each Owner will begin paying the Annual Assessments on the first day of the month following the conveyance of a Lot to that Owner. This amount will be adjusted according to the number of months remaining in the calendar year.

Section 8.3 Special Assessments

In addition to the Annual Assessment, the Board may levy Special Assessments for any of the following purposes:

- (1) constructing capital improvements;
- (2) correcting an inadequacy in the current operating account;
- (3) defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of improvements in the Common Areas; or
- (4) paying for such other matters that the Board may deem appropriate. Special Assessments must be approved by a vote of 2/3rds of the Owners voting in person or by absentee ballot at any meeting of the Association at which a quorum is present. The Board will determine the due date of any Special Assessment.

Section 8.4 Uniform Rate of Assessment

All Assessments must be set at a uniform rate for all lots.

Section 8.5 Reimbursement Assessments

The Association has the right to impose a Reimbursement Assessment against any Owner if a failure to comply with the Governing Documents has:

- (1) necessitated an expenditure of money by the Association to bring the Owner, his/her Lot or the Common Areas (in the event that the Common Areas are damaged or destroyed by the negligent or willful acts of the Owner) into compliance, including any attorney fees which were incurred by the Association; or
- (2) resulted in the imposition of a fine or penalty by the Board, after notice of the violation and an opportunity for a hearing has been given to the Owner.

Section 8.6 Effect of Nonpayment of Assessments; Remedies of the Association

Section 8.6.1 Enforce Obligations. In addition to all other remedies provided by law, the Association, or its authorized representative, such as its attorney, may enforce the obligations of any Owner to pay the Assessments in any manner provided by law or by either or both of the following procedures:

Section 8.6.1.1 Lawsuit: The Association may file a lawsuit against any Owner who is personally obligated to pay the Assessments, which are delinquent. Any judgment obtained in the Association's favor will include the amount of the delinquent Assessments, any additional charges incurred by the Association, attorney fees and court costs, litigation expenses, collection costs and any other amounts, which the court may award. A proceeding to obtain a judgment for unpaid Assessments may be maintained without the necessity of foreclosing or waiving the Association's lien.

Section 8.6.1.2 Foreclosure of the Lien: The Association's lien for any unpaid Assessment arises when any Assessment is not paid within thirty days of its due date. As more fully provided for in A.R.S. §33-1807 of the Act, the recording of the Declaration of Covenants, Conditions and Restrictions for Canoa Seca Estates II, Inc., on October 4, 1989 in Docket 8636 at page 1125 et. Seq., provides record notice and perfection of the Association's lien. The Association is not required to record a lien, but may do so to provide notice to third parties of its interest in the lot. Except for the transfer of a Lot pursuant to a foreclosure proceeding, the sale or transfer of a Lot does not affect the Association's lien. The Association may commence and maintain proceedings to foreclose its lien in the same manner as the foreclosure of mortgages. The lien for Assessments is prior and superior to all other liens, except:

(1) all taxes, bonds, Assessments and other levies which, by law, would be superior thereto; and

(2) the lien of any mortgage or deed of trust which is recorded before October 4, 1989, which is the date that the original Declaration was recorded.

Section 8.6.2 Additional Charges

In addition to any other amounts due or any other relief or remedy obtained against a delinquent Owner, each Owner agrees to pay such additional costs, fees, charges and expenditures ("Additional Charges") as the Association may incur in the process of collecting funds from any Owner. All additional charges will be included in any judgment in any suit to collect delinquent Assessments or may be levied against a Lot as a reimbursement Assessment. Additional charges will include, but not be limited to, the following:

Section 8.6.2.1 Attorney Fees: Reasonable attorney fees and costs incurred in the event an attorney is employed to collect any assessment or sum due, including the recordation of the lien, or the filing of a suit or otherwise;

Section 8.6.2.2 Late Charges: A late charge, in an amount to be determined by the Board, but in no event greater than the maximum amount authorized under the Act, which as of the date of the adoption of this Declaration is 10% of the amount

due or \$15.00, whichever is greater. An assessment becomes delinquent if it is not paid within 30 days from the date it is due;

Section 8.6.2.3 Costs of Suit: Litigation expenses and court costs incurred;

Section 8.6.2.4 Interest: Interest on all sums due from the Owner, including delinquent Assessments, costs of collection, attorney fees and late charges, at an annual percentage rate as established by the Board; and

Section 8.6.2.5 Other: Any other additional costs, which the Association may incur in the process of collecting delinquent Assessments or other sums due to the Association.

Section 8.7 Application of Payments

All payments received by the Association will be applied first to the principal amount due which includes the late charges and any collection costs and attorney fees incurred by the Association, and then to any interest, which has accrued on these sums.

Section 8.8 Statement of Assessment Lien

Upon the written request of any Owner, the Owner's agent, or a lien holder, the Association will furnish the Person making the request with a written certificate, in a recordable form, signed by an officer or authorized agent of the Association stating the amount of any Assessment which is due, and any additional charges secured by the lien upon his/her Lot. The Board may charge a reasonable fee to issue that certificate.

Section 8.9 No Exemption of Owner

No Owner is exempt from liability for the payment of Assessments because he/she does not use or enjoy the Common Areas, or has abandoned his/her Lot, or for any other reason, including any allegation that the Board is not performing its obligations under the Governing Documents.

Section 8.10 Right to Foreclose

Merely because the Association obtains a personal judgment against an Owner for delinquent Assessments does not waive the Association's lien or any action to foreclose that lien.

Section 8.11 Subordination of the Lien to the First Mortgagee

The lien for Assessments is subordinate to the lien of any first mortgage or deed of trust recorded against the Lot. The sale or transfer of any Lot does not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure of the first mortgage or deed of trust, or any proceeding in lieu thereof, extinguishes the lien for such Assessments but only as to those payments, which became due prior to such sale or transfer. No sale or transfer of any Lot shall relieve the Lot from liability for any Assessments, which become due before the sale or transfer, or from the lien for Assessments.

Section 8.12 Membership in Green Valley Recreation. Inc.

Green Valley Recreation, Inc. ("GVR") is a non-profit corporation organized under the laws of the State of Arizona that has been formed for the purpose of maintaining facilities and services for social and recreational facilities in Green Valley. On November 8, 1978, Green Valley Recreation, Inc. recorded a Master Deed Restriction in Docket 5900 on page 894, Pima County records, establishing a method to incorporate land within its jurisdictional area. The Properties are a part of that area, and each purchaser of a Lot within the Properties, by acceptance of a deed, agrees for himself, his heirs, successors and assigns, to become and remain a member of Green Valley Recreation, Inc. or its successors and assigns, to be bound by the rules and regulations, to pay all membership assessments imposed by Green Valley Recreation, Inc., and to comply with all provisions of the Articles of Incorporation and By-Laws of Green Valley Recreation, Inc. Each Lot within the Properties is subject to this Master Deed Restriction and there is a lien with power of sale, encumbering each Lot to secure payment of the Green Valley Recreation annual membership assessments. The lien for assessments in favor of GVR will be subordinate to the lien of any first mortgage holder and first mortgage holder will not be liable for payment of such assessments. A first mortgage holder or any party acquiring title to a mortgaged Lot through foreclosure or any equitable proceeding arising from said first mortgage, such as taking of a deed in lieu of foreclosure, will acquire title to a Lot free and clear of any lien authorized by any provisions of this section which secures the payment of the assessment to GVR occurring prior to the conclusion of the foreclosure suit or equivalent proceeding. Any such unpaid assessment will continue to exist as a personal obligation of the defaulting Owner to GVR. Any assessment imposed after an Owner takes title to a Lot which is unpaid will become a lien on the Lot as herein provided.

**ARTICLE 9
INSURANCE OF COMMON AREAS**

Section 9.1 Scope of Coverage

The Association will purchase liability insurance and maintain such insurance in force at all times. The insurance policy will provide liability insurance coverage for the Common Areas and all insurable facilities and improvements in an amount, which is not less than \$1,000,000.00. This policy will insure against liability for bodily injury and property damage resulting from the use of the Common Areas. This policy will also cover any liability arising from a contract of employment between the Association and another person or entity. The cost of this insurance will be paid by the Association.

Section 9.2 Repair and Replacement of Damaged Property

Insurance proceeds received by the Association for damaged or destroyed property will be used to repair and replace those portions of the Common Area about which the claim was filed.

Section 9.3 Owners Responsibilities for Insurance

In no event will the Association be required to replace or restore real or personal property located upon any Lot, and the insurance of Lots and improvements against all hazards is the responsibility of the Owner.

Section 9.4 Payment of Deductible

If any Owner causes any damage to any portion of the Common Area for which there is insurance to cover such damage, that Owner will be responsible for the payment of the deductible as provided for in such insurance.

ARTICLE 10 OWNERS RESPONSIBILITIES

Section 10.1 Scope of Responsibilities

Each Owner is responsible for all costs and expenses relating to the maintenance, repair, upkeep, taxation and Assessment of the Lot and any Improvements. All exterior repairs must be made in conformance with the original architectural design, style, and color of the structure being repaired.

Section 10.2 Maintenance on the Lot

Each Owner is responsible for maintaining those areas on the Lot which are outside of the Property enclosed by the patio or backyard wall, in a neat and well-groomed manner and in general conformance with the standards in the Properties. If an Owner fails to perform such maintenance, the Association, after providing written notice requesting that the work be performed, has the right to have its contractors enter onto the Lot, perform the necessary maintenance and charge the costs to the Owner as a Reimbursement Assessment.

Section 10.3 Tree Roots

Each Owner is responsible for the maintaining, repairing and replacing of any water or sewer line which is located under the Lot from the point that it leaves the main water or sewer line to service that Lot. This includes any damage to the sewer or water line caused by the roots of any vegetation, which is located on the Lot. Such Owner is further responsible for the repair of any damage to the Common Area or any other Lot which is caused by the roots of such vegetation, including, but not limited to the sidewalks, streets, drainage systems, integrity of the compactness and strength of sloped areas in the Common Area, and/or the foundations of the Improvements on any lot, such as the dwelling unit, patios, pools, or patio walls.

Section 10.4 Conformity to Use Restrictions

Each Owner must ensure that all construction, alteration, modification or additions to the Lot including all Improvements, conform to the Use Restrictions in Article 12.

Section 10.5 Common Area Cleanup

Owners employing contractors or laborers are responsible for the removal of any debris or liquid spills left by such Persons on the Association's streets or Common Areas. If any Owner fails to perform this cleanup, the Board will provide the Owner with notice that the area is in need of maintenance and if the work is not done within the time specified in the notice, the Association (or its contractors) will perform the necessary work and the costs incurred will become a Reimbursement Assessment against the Owner and the Owner's Lot.

Section 10.6 Permission to Use Common Area

Before any Owner can use the Common Area for the conveyance of personnel, equipment and material used in the maintenance, repair, or addition or modification to the Lot, the Owner must obtain written permission from the Common Grounds Committee to ensure that the integrity of the Common Area is preserved by such use. Any damage resulting from such use shall be corrected by the Owner. The Association, in its sole discretion, shall determine the time and scope of the corrections. In the event the owner fails to correct the damage, the association has the right to make repairs and assess the owner for costs incurred.

Section 10.7 Inspection of Lots

During reasonable hours, the Board, its Members or any Person appointed by the Board, has the right to enter and inspect the landscaped areas of any Lot to ascertain whether the Lot is in compliance with the Governing Documents. The Board will provide notice to the Owner of the date, time, and purpose of the inspection. The Person inspecting the Lot will not be deemed guilty of trespass when the Board requested that the Person conduct the inspection.

Section 10.8 Owners Liability

All provisions of the Governing Documents apply to the family, tenants, guests and invitees of an owner. Each Owner is responsible for any violation of the provisions of the Governing Documents by the Owner's family, tenants, guests and invitees.

Section 10.9 Disputes

If a dispute arises between Lot Owners or a Lot Owner and the Association, concerning conformance with this Article 10, it will be settled by arbitration. Each party will choose one arbitrator and the two arbitrators will choose a third arbitrator. The decision of a majority of the arbitrators is final and binding on all parties. The parties involved in the arbitration are responsible for making the arrangements to arbitrate. All costs associated in the arbitration will be borne by the parties to the arbitration, as determined by the arbitrators.

ARTICLE 11 ARCHITECTURAL COMMITTEE

Section 11.1 Composition of Committee

The Architectural Committee will be composed of a minimum of a Chairperson, who must be a Board Member (A.R.S 33-1817.B), and be appointed by the Board and such other members as determined by the Chairperson. Minimum committee membership should be no less than three including the Chairperson.

Section 11.2 Review by Committee

Each Owner is required to obtain written approval from the Architectural Committee before adding, altering, modifying or changing any Improvements on the Lot.

Section 11.3 Procedures for Approval

Prior to commencing work on improvement to the lot, the owner will contact the Architectural Committee and provide a detailed description of the proposed improvements, with specifications when appropriate for the purpose of enhancing clarity of the proposal. The Committee may approve the plan and specifications, or ask for additional information. Once written approval is given, no changes to the approved plans and specifications, which affect the exterior of the Improvements on the lot, can be made without additional written approval of the Architectural Committee.

Section 11.4 Additions and Modifications

In reviewing plans for additions or modifications, the Architectural Committee will decide whether or not the change is in harmony with the overall scheme of the Properties. The Architectural Committee has the right to disapprove the plans if the Committee considers the change to be in contrast to, or not in accordance with, the style of existing structures, or if the Scenic View from any other Lot will be negatively affected.

Prior to contacting the Architectural Committee, the homeowner must contact any neighbors whose scenic view may be compromised by the improvement and get their input and provide it to the Committee. The Architectural Committee may, but need not, take those inputs into account in making its final decision to approve or disapprove the plans.

Section 11.5 Minimum Criteria for Plans

All plans must be in sufficient detail to permit the Architectural Committee to make its Determination. It is recommended that contractor diagrams/plans, schematics, appropriate photographs, and numerical specifications be added as components of the proposal. Also, a statement of whether the homeowner or contractor will be submitting the request for a building permit from Pima County (if required) should be included. Unless the proposal is submitted electronically, two copies must be submitted for consideration by the Committee.

Section 11.6 No Responsibility for Defects

Neither the Association nor the Architectural Committee is responsible for any defects in plans or specifications nor for any defects in the Improvements erected according to such plans or specifications.

Section 11.7 Conflict of Interest

If a member of the Architectural Committee submits plans for Improvements on his/her Lot, that member will be recused from any discussion of said project for so long as it takes to review and either approve or disapprove of the plans.

Section 11.8 Nonconforming Structures

If any Owner installs any Improvement on the Lot without first having obtained architectural approval, the Association has the right in its sole discretion, after providing the Owner with the opportunity to remove the unapproved Improvement, to remove such Improvement, the cost of which will become a Reimbursement Assessment against the Owner.

Section 11.9 Enforcement of Violations

The Architectural Committee is responsible for ensuring that all lots conform to the use restrictions set forth in Article 12. The committee is responsible for proactively monitoring the community for violations of those requirements, as well as reviewing complaints brought to the committee's attention by homeowners. The investigation will include discussions with the subject of the complaint as well as the complainant if there is one. If the committee determines in its sole discretion that there is a violation, it will follow procedures developed in accordance with A.R.S §33-1803.

Section 11.10 Appeal of Decisions

An Owner whose plans have been disapproved or a party that has had an adverse ruling by the Architectural Committee, has the right to appeal the decision to the Board. The appeal must be filed within 10 days of the date of the Committee's decision, must be in writing, and must be addressed to the Board at 3800 S. Via Del Tejedor, Green Valley, Arizona, 85622. The decision of the Board is final and binding on all parties.

ARTICLE 12 USE RESTRICTIONS

Section 12.1 Land Use and Building Type

No improvement other than a one-story Single Family Residence, patio walls, decorative walls, swimming pool and customary attached garage may be erected, placed or maintained on any lot.

Section 12.2 Exterior Paint Colors

Only exterior paint colors as found on the Exterior Paint Schedule are allowed. The Board shall approve the exterior paint schedule. The Architectural Committee is authorized to recommend changes to the Exterior Paint Schedule after soliciting input from the CSE II homeowners.

Section 12.3 Antennas and Exterior Additions

Section 12.3.1 Satellite Dishes. Subject to the Telecommunications Act of 1996, no exterior antennas or other devices for the transmission or reception of television or radio signals, including satellite dishes, can be erected or maintained if they are Visible to Neighboring Property or from the Common Areas. Notwithstanding anything else in this Section, satellite dishes, which are one meter (39.37") or less in diameter are permitted under the Telecommunications Act of 1996. Owners are encouraged to install such satellite dishes in the least obtrusive place on the lot where there is still an acceptable quality signal.

Section 12.3.2 Approval. No Exterior devices or additions, other than initially installed by the Developer, can be constructed on the exterior of a Lot (including the roof) without the written authorization of the Architectural Committee.

Section 12.4 Solar Energy Devices

Only those solar energy devices, which are approved, in advance of installation and in writing by the Architectural Committee (AC), are permitted, provided, however, that the requirements imposed by the AC do not effectively prohibit such devices.

Section 12.5 Flags and Flagpoles

Homeowners may display flags of their choice on their property. No more than one in-ground flagpole and one wall-based flag pole is permitted on a lot.

Section 12.6 Fences, Walls, and Hedges

No fence or wall may exceed six feet in height. Any plants used to form a hedge are subject to the same setback and height requirements, which are applied to a fence or wall. To determine the height of a wall or other such item, the height will be measured from the highest ground level on the Lot. Bare concrete walls and chain link fences are prohibited. All fences or walls which were installed as part of the original construction or which were approved by the Architectural Committee are permitted even if they do not meet these requirements.

Section 12.7 Equipment

Mechanical and electrical equipment installed by an Owner cannot be Visible from Neighboring Property. Included within this restriction are air conditioning, evaporative coolers and pool pump or heating equipment. No such equipment is permitted to be exposed at the side or rear of any Lot unless reasonably concealed by plants or fencing.

Section 12.8 Lights

All exterior lights must be located and maintained so they are not directed toward or interfere with any other Owner's use of his/her Lot. Brightness of exterior lights must conform to the Pima County Outdoor Lighting Code. Exterior garage lights must be operative at night even if an Owner is absent. The Association has the right to replace inoperative garage light bulbs, the cost of which will become a Reimbursement Assessment.

Section 12.9 Business Use

No trade or business may be conducted on any Lot, provided, however, that an Owner may conduct business activities if:

- (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot;
- (b) the business activity conforms to all zoning requirements for the Properties;
- (c) the business activity does not involve any person conducting such business who does not reside on the Properties, or door-to-door solicitation of residents of the Properties;
- (d) the existence or operation of the business does not increase that lot's use of Common Areas over that which is standard for a Single Family Residence;
- (e) the existence or operation of the business does not require customers or delivery trucks to visit the residence; and
- (f) the business activity does not constitute a nuisance, or a hazardous or offensive use, or cause the Owner to violate any other provisions of this Declaration, or threaten the security or safety of other, residents of the Properties, as may be determined in the sole discretion of the Board.

Section 12.10 Leasing

An Owner may lease his/her Lot for Single Family residential purposes only. No lease may be for a period of less than 28 days. At least one of the tenants to which the Owner leases the Lot must be at least 55 years of age or older, it is a material default in any lease if the tenant violates any provision of the Governing Documents and in the event of such violation, the Association has the right to require that the Owner remove such Persons from the Lot.

Section 12.11 Temporary Structures

No vehicle, house trailer, motor home, tent, garage, camper, or boat is allowed on the Properties for use as either temporary or permanent living quarters.

Section 12.12 Rubbish

All equipment for storage or disposal of rubbish will be maintained in a sanitary condition and not Visible to Neighboring Property, except when placed at the street on the day the trash is collected.

Section 12.13 Noise

No Owner will engage in any activity or permit any activity to occur on the Properties, which will result in any unusual, loud or intrusive noise.

Section 12.14 Trees, Shrubs and Other Vegetation

Appropriate maintenance of existing trees and landscaping accompanied by the thoughtful selection and planting of new trees and landscaping can serve to enhance the aesthetic quality of our own Scenic Views and while simultaneously increasing the re-sale value of our homes. Consistent attention by homeowners to the aesthetic dimensions of our community also serves to enhance a sense of shared pride among our members. These principles have been used as the underlying rationale for the content presented in Sections 12.14.1 through 12.14.3.

Section 12.14.1 Requirements for Trees, Shrubs and Other Landscaping

No vegetation may be planted on the lot in a location, which may impose a traffic hazard. Except as otherwise permitted under this Section, trees and shrubs on a lot must be regularly and continuously pruned to a height that does not exceed the parapet height of the improvements on the Lot. Hedges planted along property boundaries must not exceed six feet in height. Dead fronds on Palm trees must be removed by June 1st of each year.

Section 12.14.2 Exceptions to Height Restrictions

The following types of trees and vegetation throughout CSE II are permitted to exceed the parapet height restriction:

- Palm Trees (planted prior to March 2019)
- Saguaro Cacti
- Ocotillos

Section 12.14.3 Variances to Height Restrictions

The Board may grant a variance to the parapet height restriction for any tree or shrub on a Lot upon a written request from the Lot Owner, and a finding that the tree or shrub has no impact on Scenic View. The variance shall be limited to the healthy life of the tree or shrub for which the variance is granted. In the case of a tree or shrub that was planted prior to March 2019, that already exceeds the parapet height restriction as of March 2019, and on which no complaints have been made in the last three years; the Board may also permit a variance, not to exceed two years, to permit the owner to bring the tree or shrub to compliance in a manner that promotes the health of the tree.

Section 12.15 Vehicle Parking and Storage

Section 12.15.1. Vehicle Parking

Except as otherwise permitted by the section, parking within the Properties is restricted to the garages and paved driveways on each Lot and the additional parking areas shown on the Plat. Parking on the Common Areas, other than designated on the Plat is prohibited. Vehicles parked on the Lots must be parked in the garages, except that vehicles may be parked on the driveway or in a designated parking area for a period of

time not to exceed seven consecutive days, and not more than 10 days in any 30 day period.

Owners and guests may park in front of a Lot or another non-designated parking area solely for the purpose of loading and/or unloading personal belongings from a motorized or non-motorized vehicle if the time in which the vehicle is parked in any non-designated parking space is not more than three consecutive days, and does not pose a safety concern.

Section 12.15.2. Recreational Vehicle Storage

Recreational vehicles (including, but not limited to, motor homes, campers, vans, trailers, boats and golf carts, or other vehicle that will not fit in a garage) cannot be stored or parked on any portion of the Properties for more than three days, except within the confines of a garage.

Section 12.15.3. Inoperable Vehicles

No inoperable vehicles can be parked in the Common Area or on any Lot.

Section 12.15.4. Vehicle Parking Variances

The Board may grant a variance to these parking restrictions in the case a written request from a Lot Owner, and a finding of significant hardship or other good cause, including but not limited to regular in-home caregiving services. The variance shall be limited to the period of time for which the significant hardship or other good cause exists, and will not run with the land.

Section 12.16 Drainage-Ways

No Structure, vegetation or any other material is permitted within any drainage-way which may change the direction of flow or which may obstruct or retard the flow of water.

Section 12.17 Native Growth

The native growth on the Common Areas cannot be destroyed, removed, replaced or added to, except by the Association. If such growth is removed or added by an Owner, the Board has the right to replant, replace or remove such growth, the cost of which will be a Reimbursement Assessment against the responsible Owner.

Section 12.18 Signs

No billboards or signs of any kind are permitted on any Lot or Improvements on the Lot, with the exception of real estate and political signs in accordance with A.R.S. §33-1808.

Section 12.19 Clotheslines

Clotheslines must be of a retractable type and must not be visible from a neighboring property.

Section 12.20 Animals

Only domestic pets are permitted so long as they are kept confined within the Single Family Residence or a fenced yard. Owners must take reasonable measures to minimize their dog's barking. All Pima County Ordinances regarding pets apply to the Properties within the Association, including the requirement that pets must be on a leash and that any feces deposited on the lots or Common Areas must be promptly removed and suitably disposed of by the custodian of the pet.

ARTICLE 13 PARTY WALLS

Section 13.1 General Rules of Law to Apply

Each wall on a Lot, whether it is a patio wall or bearing wall, which was placed on or immediately adjacent to the dividing line between the Lots is a Party Wall. The general rules of law regarding party Walls and liability for property damage due to negligence or willful acts or omissions apply.

Section 13.2 Alterations

No Owner may alter the appearance or structure of a Party Wall (except that landscaping is not precluded) without the consent of the Architectural Committee. The Committee may deny approval if all Owners having an interest in the party Wall have not consented to the alteration.

Section 13.3 Sharing of Repair and Maintenance

The cost of ordinary repair and maintenance of a Party Wall will be shared equally by the Owners of the Lots, which are divided by the wall. Sharing of repair and maintenance does not apply to that portion of the Party Wall that is solely a part of one Owner's structure.

Section 13.4 Destruction by Fire or Other Casualty

If a party Wall is destroyed or damaged by fire or other casualty, an Owner using the wall may restore it and such Owner is granted a permanent access easement across any adjoining lot for such restoration. The Owners of the Lots, which are divided by the wall, will equally share in the costs of such restoration.

Section 13.5 Weatherproofing

An Owner who negligently or willfully causes a Party Wall to be exposed to the elements will bear the whole cost of repairing all damage resulting from such exposure.

Section 13.6 Conflict Resolution Regarding Party Walls

If any dispute arises regarding a Party Wall, the conflict resolution process described in Section 10.9 shall be followed.

**ARTICLE 14
GENERAL PROVISIONS**

Section 14.1 Enforcement by an Owner

Each Owner has the right to enforce the Governing Documents by filing a lawsuit against any other Owner and the successful party will be entitled to an award of its reasonable attorney fees, litigation expenses and costs incurred.

Section 14.2 Enforcement by the Association

Section 14.2.1 Means of Enforcement.

The Association may enforce the Governing Documents in any manner provided for in the Governing Documents, or by filing a lawsuit, including, but not limited to:

Section 14.2.1.1 Imposing reasonable monetary fines and penalties against the Owner after notice and an opportunity to be heard is given to the Owner or other violator. An Owner is responsible for the payment of any fine or penalty, which is imposed against an invitee of the Owner. Fines and penalties become a Reimbursement Assessment;

Section 14.2.1.2 Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty days delinquent in paying any Assessment or other charge owed to the Association;

Section 14.2.1.3 Exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

Section 14.2.1.4 Requiring an Owner, at the Owner's expense, to remove any Improvement on the Lot in violation of the Governing Documents and to restore the Lot to its previous condition. After notice stating a time within which the Owner must perform if the Owner fails to take action, the Board or its designee has the right to enter the Lot, remove the Improvement in violation and restore the Lot to substantially the same condition as previously existed and any such action will not be considered as trespassing;

Section 14.2.1.5 Without liability to the Association or Board, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Governing Documents, from continuing or performing any further activities in the Properties;

Section 14.2.1.6 Towing vehicles which are parked in violation of the Governing Documents;

Section 14.2.1.7 Filing a lawsuit to enjoin a violation of the Governing Documents, to compel compliance with the Governing Documents, to recover fines or money damages or to obtain such other relief to which the Association may be entitled; and

Section 14.2.1.8 Recording a written Notice of a Violation. The Notice of Violation shall be executed and acknowledged by an officer of the Association and shall

contain substantially the following information: (i) the name of the Owner; (ii) the legal description of the Lot against which the notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the Owner and to any subsequent purchaser of the Lot that there is a violation of the provisions of the Declaration. If, after the recordation of the notice, it is determined by the Association that the violation referred to in the notice has been cured, the Association shall record a Notice of Compliance which shall state the legal description of the Lot against which the Notice of Violation was recorded, the recording data of the Notice of Violation, and shall state that the violation referred to in the Notice of Violation has been cured, or if such be the case, that it did not exist.

Section 14.2.2 No Obligation to Enforce.

The Association is not obligated to take any enforcement action if the Board determines, in its sole discretion, that by virtue of the Association's finances, possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association.

Section 14.2.3 Rights Are Cumulative.

All rights and remedies of the Association under the Governing Documents or at law or in equity are cumulative, and the exercise of one right or remedy does not waive the Association's right to exercise another right or remedy. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Governing Documents does not constitute and is not a waiver of the right of the Association or any Owner to enforce the Governing Documents in the future.

Section 14.2.4 Delay or Omission is Not a Waiver.

No delay or omission on the part of the Association or any Owner in exercising its right to enforce the Governing Documents will be construed as a waiver or breach of any of the provisions of the Governing Documents or an acquiescence in any breach of the Governing documents and no claim or cause of action will accrue against the Board, the Association or an Owner for their neglect or refusal to exercise such right of enforcement.

Section 14.2.5 Breach Does Not Invalidate First Mortgage.

No breach of the foregoing provisions, conditions, restrictions or covenants will defeat or render invalid the lien of a First Mortgage made in good faith for value as to any portion of the Properties. Such provisions, conditions, restrictions and covenants will be enforceable against any portion of the Properties acquired by any Person through foreclosure for any breach occurring after such acquisition.

Section 14.3 Attorney Fees

The Association has the right to recover any attorney fees, litigation expenses, costs or other expenses incurred as a result of any Owner's breach of any of the provisions of the Governing Documents. Such charges will be a Reimbursement Assessment and may be

recovered against the Owner personally or against the Lot. The right to recover such charges exists regardless of whether the Association files suit or is successful in compelling compliance without filing suit.

Section 14.4 Severability

Invalidation of any covenant, restriction, provision or term of the Governing documents does not affect any other covenant, restriction, provision or term.

Section 14.5 Amendment

The Declaration may be amended by the Owners provided:

- (1) the amendments are approved by the Owners of at least 51% of the Lots;
- (2) the amendments are in writing signed by the President and Secretary of the Association attesting that the amendment was approved by the requisite number of Owners; and
- (3) the amendment is recorded in the Pima County Recorder's Office.

Section 14.6 Age Restrictions

Canoa Seca Estates II, Inc., is an age restricted community and is deemed to be "housing for older persons" within the meaning of the Fair Housing Act Amendments of 1988, Public Law 100-430, as further amended by the Housing for Older Persons Act of 1995 (Public Law 104-76), 42 U.S.C. §3607, as further interpreted by Rules and Regulations of the Department of Housing and Urban Development. Each Lot must be occupied by at least one person who is 55 years of age or older. No person under the age of 18 may reside on any Lot except on a temporary basis not to exceed three months in any one calendar year. It is the duty and obligation of each Owner to ascertain that upon the sale, rental or lease of the Lot, at least one occupant will be at least 55 years of age and to provide written verification to the Board. It is understood that ultimate responsibility for compliance with the provisions of this Section 14.6 rests with the Owners, and not the Association. The Association and its officers, directors and agents are not liable for complying with these provisions, since it is the duty of each Owner to ensure compliance with these Age Restrictions and to provide appropriate verification to the Association.

Section 14.7 Age Restriction Exemption

If an occupant who is 55 years of age or older dies and the surviving spouse or other cohabitant was living with that occupant on the date of the death, then provided such surviving spouse or other cohabitant is at least 45 years old and provided that at least 80% of the lots are occupied by one person who is 55 years of age or older, the Association will permit the surviving spouse or cohabitant to continue to live on the Lot without being in violation of the Governing Documents.

Section 14.8 Term

The provisions of this Declaration run with the land and continue and will remain in full force and effect at all times and against all Persons. By acquiring an ownership interest

in any Lot, each person or entity, binds him/herself or itself to all of the provisions and restrictions imposed by this Declaration, as amended from time to time.

Section 14.9 Captions

All captions and titles used in the Governing Documents are intended solely for convenience or reference purposes only and in no way define, limit or describe the intent and meaning of the provisions.

*** CERTIFICATION AND SIGNATURES ONLY NEXT PAGE ***

IN WITNESS WHEREOF, the undersigned certify that, Owners of at least 51% of the Lots voted by written ballot without a meeting to approve to amend Section 3.1, Section 5.4, Section 10.6, Article 11, Section 12.2, Section 12.5, Section 12.8, Section 12.10, Section 12.14, Section 12.15, Section 12.18, Section 12.19, Section 13.6, Section 14.2.1.8, and Section 14.6 of the Current Declaration as amended, and that this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Canoa Seca Estates II includes these amendments, as well as a restatement of the Current Declaration and all previous amendments thereto.

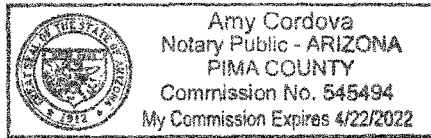
CANOA SECA ESTATES II, INC., an Arizona non-profit corporation

By: *Sandra K Hill*
Sandra K. Hill
Its: President

ATTEST:

By: *Barbara A Wray*
Barbara A. Wray
Its: Secretary

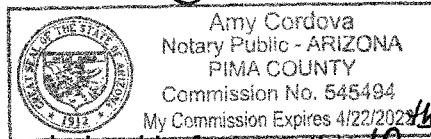
STATE OF ARIZONA)
 : SS:
County of Pima)



The foregoing instrument was acknowledged before me this 12th day of March, 2019, by Sandra K. Hill, President, CANOA SECA ESTATES II, INC., an Arizona non-profit corporation, on behalf of the corporation.

Amy M. Cordova
Notary Public

STATE OF ARIZONA)
 : SS:
County of Pima)



The foregoing instrument was acknowledged before me this 12th day of March, 2019, by Barbara A. Wray, Secretary, CANOA SECA ESTATES II, INC., an Arizona non-profit corporation, on behalf of the corporation.

Amy M. Cordova
Notary Public