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HillcrestImpThird-23-1-1--
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THIRD AMENDED AND RESTATED DECLARATION OF RESTRICTIONS
FOR
HILLCREST IMPROVEMENT ASSOCIATION

This THIRD AMENDED AND RESTATED DECLARATION OF RESTRICTIONS FOR HILLCREST IMPROVEMENT ASSOCIATION ("Declaration") is made this 8th day of May, 2023, by the Hillcrest Improvement Association, Inc. ("Association").

RECITALS

A. The Hillcrest Improvement Association is an Arizona non-profit corporation which represents the owners of certain property in Maricopa County, Arizona, legally described as follows:

The Southwest quarter (SW 1/4) of the Southeast quarter (SE 1/4) of Section Eight (8), Township Three (3) North, Range Three (3) East of the Gila and Salt River Base and Meridian (G&SRB&M), including Lots One (1) through One Hundred Seventeen (117) inclusive, and Tracts A, B, C, D, E, F, G and H inclusive, Hillcrest One, Two, Three, and Four, a subdivision of Maricopa County, Arizona, according to the plats of record thereof in the office of the County Recorder of Maricopa County, in Book 115 of Maps, page 28 thereof, Book 119 of Maps, page 26 thereof, Book 137 of Maps, page 26 thereof and Book 149 of Maps, page 44 thereof.

B. The Sixth Amended Declaration of Restrictions for Hillcrest Improvement was recorded on July 1, 1996, at Document No. 96-0465817; the Seventh Amended and Restated Declaration of Restrictions for Hillcrest Improvement Association was recorded on September 24, 1996, at Document No. 96-0672087; the Eighth Amended Declaration of Restrictions for Hillcrest Improvement Association was recorded on June 10, 1998, at Document No. 98-0490815; The Amendment to Hillcrest Improvement Association Eighth Declaration of Restrictions was recorded on May 19, 2000, at Document No. 00-0382824; the Amended and Restated Restrictions for Hillcrest Improvement Association was recorded on March 2, 2007, at Document No. 2007-0257354; the Second Amended and Restated Declaration of Restrictions for Hillcrest Improvement Association was recorded on February 20, 2013, at Document No. 2013-0160283 ("Declaration"); all official records of the County Recorder, Maricopa County, Arizona and subjected the real property described in the Declaration (and any amendment) to the Declaration and required that the property be held, sold, used, and conveyed subject to the easements, restrictions, covenants and conditions, which run with the title to the real property subject to this Declaration.

C. The Declaration is binding on all parties having any right, title or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the properties.

D. The members of the Association wish to amend and restate the Declaration in its entirety.

E. The Declaration may be amended at any time by the affirmative vote, written consent, or any combination thereof of Owners of fifty-one percent (51%) of the Lots of the Association at an Annual or Special Meeting of the Members. The Association has obtained the affirmative vote representing the above-mentioned requirements. Any amendment to this Declaration, past, present or future, shall be subject to a presumption that sufficient notice of such amendment was provided to the Owners by the original Declaration, and that such amendment was reasonable and foreseeable to the Owners at the time of purchase. This amendment to the Declaration does not create any new affirmative obligations for Owners of Lots within the Association; rather, the amendments set forth herein refine the Declaration, correct an error, fill in a gap, and/or change the Declaration in a particular way.

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ARTICLE I**DEFINITIONS**

Section 1. "Articles" means the duly adopted and filed Articles of Incorporation of the Association and any amendments thereto.

Section 2. "Association" means Hillcrest Improvement Association established by the Articles.

Section 3. "Assessment(s)" means any charge or charges imposed by the Board or the Members to pay for the expense of improvement, maintenance and operation of the Property and governance of Association in accordance with the provisions of the Articles, Bylaws and these Restrictions.

Section 4. "Association Documents" means the Articles, these Restrictions, the Bylaws and any Rules duly adopted and published by the Board from time to time.

Section 5. "Board" means the duly elected Board of Directors of the Association.

Section 6. "Bylaws" mean the duly adopted Bylaws of the Association and any amendments thereof.

Section 7. "Common Areas" means all the real property and improvements thereon described as Tracts in the description of Property herein and owned by the Association for the common use and enjoyment of the Owners.

Section 8. "Director" means a duly elected or appointed member of the Board.

Section 9. "Improvements" means all buildings, permitted outbuildings, sheds, walls, fences, gates, fountains or other structures on the Lot.

Section 10. "Landscaping" means all grass, shrubs, hedges, vines, trees or other decorative plants on a Lot and all gravel, rock and walkways thereon.

Section 11. "Lot" or "Lots" means the Lot or Lots described in the description of Property herein, excepting the Common Areas.

Section 12. "Maintenance" means the execution of all reasonable repairs, replacements, restorations or rehabilitation of any Improvement on a Lot.

Section 13. "Member" means an Owner as herein defined.

Section 14. "Officer" means a Director who is a duly elected President, Vice President, Secretary or Treasurer of the Association.

Section 15. "Owner(s)" means the Owner(s) of record of legal title to any Lot, including the purchaser of a Lot who is the occupant thereof under an executory contract for the purchase of the Lot, but excluding a person or entities who are lessees of the Lot or tenants thereon or who hold any interest in the Lot as security for the performance of an obligation.

Section 16. "Party Wall" means a block fence wall separating Lots as further provided in Article VI hereof. Party Wall shall not include the wall which is the load bearing wall of the home abutting the Lot line of the adjacent Lot.

Section 17. "Plat" means the recorded maps or plats referred to in the description of the Property herein.

Section 18. "Property" means the real estate described in these Restrictions.

Section 19. "Publish" means to post on the community bulletin board, or to mail, e-mail or hand deliver to Members any information required to be published by the Articles, the Bylaws or these Restrictions.

Section 20. "Restrictions" means this Third Amended and Restated Declaration of Restrictions of the Association.

Section 21. "Rules" means those rules and regulations duly adopted and Published by the Board from time to time that are not inconsistent with the provisions of the Articles, the Bylaws or the Declaration as herein provided in Article II hereof.

Section 22. "Single Family" shall mean a group of one or more persons related to the other by blood, marriage, or legal adoption, or a group of not more than three persons not all so related, who maintain a common household in a Unit.

Section 23. "Vehicle Storage Area" means a carport or a paved uncovered area on a Lot adjacent to its driveway.

Section 24. "Visible from the Neighboring Property" means, with respect to any object on a Lot, that such object is or would be visible from the street, the neighboring Lots or from the Common Areas of the Property to a person six (6) feet tall standing on any part of the adjoining Lots or Common Areas at an elevation no higher than the base of the house on the Lot where such object is located.

ARTICLE II

HOMEOWNERS ASSOCIATION

Section 1. The Association. The Association is a duly organized Arizona non profit corporation in good standing and shall at all times take such actions which may be necessary and appropriate for the maintenance, repair, replacement and management of all Common Areas and Improvements thereon and supplies therein.

Section 2. The Board. The affairs of the Association shall be conducted by the Board and such Officers and committees as the Board may elect or appoint, all in accordance with the Articles, Bylaws and these Restrictions as amended from time to time.

a. **Rules.** By majority vote, the Board may, from time to time and subject to the provisions of these Restrictions, adopt, amend and repeal Rules governing the use of any Common Area by any Owner, Owner's family or invitee/s and enforcement of violations, including the imposition of fines and

penalties. The Board shall Publish a copy of such Rules and deliver a copy thereof to any Owner upon request of such Owner.

b. **Limitation of Liability.** No Director, Officer, employee, member of any committee, or individual volunteer providing service to the Association with the consent of the Association shall be personally liable to any Owner or to any other party, including the Association, for any loss or damage suffered or claimed on account of any act, omission, error or negligence of the Association, the Board, any other representative, employee or volunteer Member of the Association, any committee of the Board or assisting a Director, or any Officer or Director of the Association, provided that such person has, upon the basis of such information as may be possessed by him or her, acted in good faith, without willful or intentional misconduct. For this purpose, private contractors, sub-contractors and their employees are not intended as Association employees.

c. **Limitation of Director Liability.** In accordance with provisions of law applicable to non-profit corporations, each Director shall be immune from civil liability and shall not be subject to suit indirectly or by way of contribution for any act or omission resulting in damage or injury if the Director was acting in good faith and within the scope of his/her official capacity (which is any decision, act, or event undertaken by the Association in furtherance of the purposes for which it is organized) unless such damage or injury was caused by willful and wanton or grossly negligent conduct of the Director. This provision intends to give all Directors the full extent of immunity available under the law.

d. **Indemnification.** The Association shall indemnify any person who incurs expenses or liabilities by reason of the fact that he or she is or was an Officer, Director, or agent of the Association. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by law; provided, however, that the Association shall have the right to refuse indemnification if the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Association, at its own expense and through counsel of its choosing, to defend such person in the action.

Section 3. Membership. An Owner of a Lot shall be a Member of the Association, and shall remain a Member of the Association until such time as his/her ownership ceases for any reason. Ownership of a Lot shall be the sole qualification and criteria for membership. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of such Lot and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to transfer membership without a transfer of title to the Lot is void and will not be reflected in the records of the Association.

a. **Member Voting.** Each Owner shall be entitled to only one vote for each Lot owned. When more than one person holds an interest in the same Lot, all such persons shall be Members but only one vote for such Lot shall be exercised as they among themselves determine. In no event shall more than one vote be cast for any Lot.

b. **No Fractional Votes.** The vote for each Lot must be cast as one (1) whole vote and fractional votes shall not be allowed. If joint Owners are unable to agree among themselves as to how their vote or votes are to be cast, they shall lose their right to vote on the matter in question. If any joint Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or she had the authority and consent of all other joint Owners of the same Lot. If more than one

(1) vote is cast for a jointly owned Lot, no additional votes shall be counted and all such additional votes shall be deemed void.

c. **Membership Rights.** Each member shall have such other rights, duties, and obligations as set forth in the Articles and Bylaws, as amended from time to time.

ARTICLE III

MAINTENANCE RESPONSIBILITIES

Section 1. Maintenance of Common Areas. The Association shall do all things necessary for the general benefit and welfare of the Owners and the Association, and shall manage and maintain the Common Areas, including but not limited to, the streets, walks, parks, recreation areas, including the swimming pool and all other commonly owned lands of the Association, and do all other necessary things as set forth in the Articles.

Section 2. Assessment of Certain Costs of Maintenance. If the need for Maintenance of the Common Areas is caused through the willful or negligent act of any Owner, his/her agents, employees, contractors, family, tenants, guests or invitees, the cost of such Maintenance shall be charged against the Lot of such Owner. The cost incurred by the Association, if not paid by the Owner within thirty (30) days after the Association gives the Owner notice of the amount due, shall be a lien against the Lot owned by the offending Owner and enforceable in the same manner as Assessments.

Section 3. Maintenance. Each Owner shall be responsible for Maintenance of all Improvements and Landscaping on his or her Lot. Upon failure of Owner to perform Maintenance as herein required in a manner satisfactory to the Board, the Association shall have the right, through its agents or Officers, to enter upon such Lot and perform such Maintenance and charge such Owner the cost of such Maintenance by written notice of such charge. If Owner does not pay such charges to the Association within thirty (30) days of delivery of such notice, the amount due shall be a lien upon such Lot enforceable in the same manner as Assessments.

ARTICLE IV

PERMITTED USES, CLASSIFICATIONS AND RESTRICTIONS

Section 1. Age Restrictions. The Association is an age-restricted community. At least eighty-five percent (85%) of the Lots must be occupied by at least one person fifty-five (55) years of age or older. The remaining Lots must be occupied by at least one person forty (40) years of age or older. No person who is less than eighteen (18) years of age shall be a permanent occupant of any Lot; however, a person who is less than eighteen (18) years of age may be a guest for a period not to exceed thirty (30) days in any twelve month period.

a. **Exceptions.** The Association may grant variances to the above restrictions, unless the granting of a variance would result in less than eighty-five percent (85%) of the Lots being occupied by one person fifty-five (55) years of age or older or would otherwise jeopardize the Property's status as housing for older persons under the Fair Housing Acts. Any request for a variance submitted to the Association pursuant to this subsection shall set forth the names and ages of all proposed residents of the

residential unit, the reason for the request and such other information as the Association may reasonably require.

b. **Policies and Procedures.** The Board shall publish, adhere to and enforce policies and procedures that demonstrate intent to provide housing for persons fifty-five (55) years of age or older and as may be necessary from time to time to meet all requirements of the Fair Housing Acts.

c. **Adoption of Policies and Procedures.** The Board shall further policies and procedures for regulating and ensuring that at least eighty-five percent (85%) of the Lots are occupied by at least one (1) person fifty-five (55) years of age and older at all times.

d. **Age Verification.** The Board shall provide each Owner with an Age Verification Form every even numbered year. Each Owner shall be responsible for completing the form and returning it to the Board in a timely manner.

e. **Changes.** If there is a change in the number or identity of persons occupying a Lot for any reason, including as a result of transfer, sale, gift, lease, sublease, assignment, death, birth, marriage, separation or divorce, the Owner of the Lot shall immediately notify the Board in writing and provide the Board with the names and ages of all occupants of the Lot.

f. **Enforcement.** In addition to the other enforcement powers given the Association and the Board under these Restrictions and the Bylaws, the Association shall have the right to enforce this Section 1 and any and all Rules in connection with the age restrictions set forth in this Section 1. The Association's remedies for violation of this Section 1 include, but are not limited to: seeking injunctions and other legal remedies; imposing fines; suspension of voting rights; suspension of use of the recreational facilities; and assessing for costs incurred in connection with such violation, including, but not limited to, administration costs and attorney's fees.

Section 2. Residential Use. The Lots shall be for private residential use only and shall be restricted to single-family dwellings and accessory buildings only. No business uses or activities of any kind whatsoever shall be permitted or conducted upon any Lot, except that an Owner or other resident of a Lot may conduct a business activity on the Lot so long as: (i) The existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the Lot; (ii) The business activity conforms to all applicable zoning ordinances or requirements for the Lot; (iii) The business activity does not involve persons coming onto the Lot or the door-to-door solicitation of Owners or other residents in the Property; and (iv) The business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other residents of the Property, as may be determined from time to time in the sole discretion of the Board. Furthermore, no advertising or directional signs may be placed upon the Lot or any portion of the Common Area regarding any business activity. 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 such activity is engaged in full or part time; such activity is intended or does generate a profit; or a license is required for such activity.

Section 3. Signs. No signs other than the following shall be allowed on Lots so as to be Visible From Neighboring Property without written permission from the Board of Directors:

- a. One professionally manufactured or produced 'for sale' sign which may be no larger than an industry standard for sale sign (not to exceed 18 x 24 inches) and a sign rider (not to exceed 6 x 24 inches) located on an Owner's Lot;
- b. One professionally manufactured or produced 'for rent' sign which may be no larger than an industry standard for sale sign (not to exceed 18 x 24 inches) and a sign rider (not to exceed 6 x 24 inches) located on an Owner's Lot;
- c. One 'open house' sign which may be no larger than an industry standard for sale sign (not to exceed 18 x 24 inches) located on an Owner's Lot;
- d. Owners may display political signs on their Lot pursuant to A.R.S. Section 33-1808, as it may be amended from time to time, and,
- e. Signs warning of security system installations.
- f. No signs shall be placed on Common Areas without the prior approval of the Board.

Section 4. Nuisances. No unsightly object or nuisance shall be placed or maintained on any Lot. No use or activity shall be permitted on or from any Lot that may endanger the health of or unreasonably disturb any Owner or occupant of any Lot. No Owner shall permit anything or any condition to exist on any Lot that shall induce, breed, or harbor infectious plant diseases, insects or vermin, including rats and mice. No nuisance shall be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, televisions or other sound devices or bright lights, except security sound and light devices used exclusively for security purposes, shall be operated on any Lot, and no habitually barking dog or dogs shall be permitted on any Lot, so as to become a nuisance or to substantially impair the right of residents to peacefully use and enjoy their Lots and the Common Area. The Board in its sole discretion shall have the right to determine the existence of any such nuisance.

Section 5. Animals. No dogs, cats, birds, livestock, poultry, fish, reptiles, bees, or other animals shall be kept on Lots other than a reasonable number of generally recognized household pets. All pets, including, but not limited to dogs and cats, when off their Owner's Lot, must be leashed and under control of a human being at all times. Unattended barking dogs are prohibited. When a pet is walked on any Common Area, its solid waste shall be picked up immediately upon its deposit. Upon the written request of any Owner, the Board shall determine, in its sole and absolute discretion, whether a particular dog, cat, bird, or any other animal is a nuisance, and whether the number of animals on any such property is reasonable. The Board shall have the right to prohibit any dog, cat, bird, or any other animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Any decision rendered by the Board shall be as enforceable as other restrictions contained in these Restrictions.

Section 6. Antennas and Satellite Dishes.

a. **Permitted Devices.** Unless governed by 47 C.F.R.-1.400 (Over-the-Air Reception Devices Rule), as amended, no antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors with the Properties, whether attached to a building or structure or otherwise, unless approved by the Board.

b. **Installation Rules.** Any device covered by Over-the-Air Reception Devices Rule, as amended, shall comply with the applicable antenna installation rules of the Association and shall be mounted, to the extent reasonably possible, so as to not be Visible from the Neighboring Property or the street.

c. **Specifications.** The devices governed by the Over-the-Air Reception Devices Rule as of the date of the recording of these Restrictions are as follows: (i) Direct Broadcast Satellite antennas one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite; (ii) Multi-point Distribution Service antennas one meter or less in diameter or diagonal measurement, designed to receive video programming services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite; (iii) Antennas designed to receive local television broadcast signals; and (iv) Antennas designed to receive and/ or transmit data services, including Internet access. If the FCC expands the types of antennas that fall under the FCC Rules, this Section shall encompass those antennas as well.

Section 7. Solar Equipment. Any solar energy device that is Visible From Neighboring Property requires Architectural Committee approval, pursuant to A.R.S. 33-1816, prior to its installation.

Section 8. Garbage. No rubbish, trash or garbage shall be placed or kept on any Lot except in covered containers of a type, size, and style, which are approved by the Board. Containers shall not be maintained so as to be Visible From Neighboring Property, except to make them available for collection and, then, only the shortest time reasonably necessary to effect such collection. No Owner shall permit odors to arise there from, so as to render the Owner's Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property.

Section 9. Clotheslines. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any property so as to be Visible from the Neighboring Property.

Section 10. Storage. No material, including, but not limited to, equipment, wood piles or storage tanks, shall be stored on any Lot so as to be Visible from the Neighboring Property. Any existing Improvements on a Lot at the time of recordation of this Declaration are considered approved.

Section 11. Vehicle Storage Areas and Garages. All Vehicle Storage Areas shall be kept free of debris and storage items. All garages shall be kept closed at all times other than those needed for the entering or exiting of vehicles, the conduct of a hobby, and those needed for daily maintenance and repair of the premises.

Section 12. Parking.

a. **Prohibitions.** Except as provided herein: (i) no overnight parking on the streets is permitted, and continuous parking of any vehicle or equipment between 1:00 a.m. and 4:00 a.m. on any

street shall be conclusively deemed overnight parking; and (ii) no vehicle or equipment of any kind may be parked anywhere on Lot, other than its driveways and Vehicle Storage Areas.

b. **Passenger Vehicles.** Private passenger vehicles, passenger pickup type vehicles, SUVs, and motorcycles, properly licensed, currently registered, in operating condition, not up on blocks, and not encroaching upon the street or its curbs, may be parked overnight in the driveway on the Lot, even if Visible from the Neighboring Property.

c. **Recreational Vehicles.** Campers, trailers, mobile homes, motor homes, recreation vehicles, buses, trucks or vans larger than 3/4 ton capacity, and boats shall not be parked overnight on the street, or on any other portion of a Lot for more than twenty-four (24) hours at a time.

d. **Commercial Vehicles.** Except as otherwise permitted under Arizona law, commercial vans, pickup trucks, and other types of commercial and industrial vehicles shall not be parked overnight on the streets or on Lots, including driveways, so as to be Visible from the Neighboring Property. Commercial and industrial vehicles are defined as any vehicle that meets any one or more of the following criteria: Displays any type of exterior signage, design or lettering for advertising; a vehicle classed by manufacturer's rating exceeding 3/4 ton capacity; a vehicle containing commercial utility racks, work product or work equipment stored on the vehicle that is visible from outside of the vehicle. Exceptions to this provision may be made by the Board if such parking is temporary and in the course of major repair or remodeling or improvements on a Lot.

e. **Repairs.** No extensive repairs on any vehicles or boats shall be performed on any streets, driveways or exterior portion of any Lot.

Section 13. Rentals.

a. **Prohibitions.** In the interest of discouraging purchase of Lots for investment purposes with an intention to lease, and of preserving the values of all Lots within the Property, rental or lease of Lots is prohibited excepting as herein provided.

b. **Permitted Leases.** The following are permitted leases: (i) Leases by Owners of Lots who are leasing their Lot as of the date these Restrictions are recorded; (ii) Lease by an Owner who has lived in the residence on his Lot for one (1) full calendar year; or (iii) Lease by the estate or heirs of a deceased Owner who was permitted to lease the Lot; provided, however, that any lease of a Lot shall be subject to these Restrictions, the Articles, the Bylaws, the Rules and any other documents governing the Association. Any lease of a Lot shall contain a provision that any violation of these Restrictions, the Articles, the Bylaws, the Rules or any other documents governing the Association shall be a default under the lease and is grounds for eviction. For the purposes of this exception, at least one (1) occupant of each Lot shall be fifty-five (55) years of age or older and no person who is less than eighteen (18) years of age shall be an occupant.

c. **Minimum Rental Period.** No Owner may lease less than his or her entire Lot and the residential dwelling unit situated thereon. No Owner of a Lot shall rent or lease such Lot for a period of less than six (6) months; provided that any Owner, as of the date of adoption of this provision, may continue to rent or lease their Lot until such Lot is sold or transferred by the Owner. All leases shall be subject to the following restrictions:

- (i) All leases must be in writing and must provide that the terms of the lease are subject in all respects to the provisions of this Declaration and the Association Rules and any State, County, or City Rules or Regulations regarding leasing of properties.
- (ii) All leases shall contain a requirement that any violation of this Declaration or the Association Rules, State, County, or City Rules by the lessee or the other occupants shall be a default under the lease.
- (iii) There shall be no subleasing of residential dwelling units or assignments of leases.
- (iv) An Owner may not lease his or her Lot to more than one Single Family at one time. No advertisement offering a lease or rental for less than six (6) months shall be allowed.

d. **Lease Information.** Within ten (10) days after the lease or rental of the Lot, the Owner of the Lot shall submit to the Board any other information or documentation about the lease terms and lessee(s) which the Board may require, pursuant to A.R.S. Section 33-1806.01, as it may be amended from time to time.

e. **Non-compliance.** If an Owner enters into a prohibited lease, enters into a lease that does not comply with this Section 13, or fails to provide the required documents to the Association in a timely manner as determined by the Board, the Association may impose reasonable monetary penalties as determined by the Board, and any other remedies available under these Restrictions and Arizona law.

f. **Tenant Violations.** Any continuing violation or repeated violations of the conditions of these Restrictions shall be a default under the lease. The Owner shall remain liable for compliance with these Restrictions, Articles, Bylaws, and any other documents governing the Association, and shall be responsible for any violations thereof by his or her tenant or his or her tenant's family and guests. All notices of violations shall be sent to the Owner. Each Owner shall provide a copy of these Restrictions, Articles, Bylaws, and any other documents governing the Association to each tenant of his or her Lot. By becoming a tenant, each tenant agrees to be bound by these Restrictions, Articles, Bylaws, and any other documents governing the Association and recognizes that any continuing violation or repeated violations thereof is grounds for eviction from the Lot. If a tenant commits violations that are grounds for eviction, the Association may provide notice to the Owner of the tenant's violations, and require that the Owner evict the tenant for the violations.

If the Owner fails to make a good faith effort to evict the tenant, the Association may impose reasonable monetary penalties against the Owner as determined by the Board, and may exercise any other remedies available under these Restrictions, the Rules and Arizona law.

Section 14. Estate/Garage/Patio/Yard Sales. No garage, estate, patio or yard sales to the public may be held at any Association residence or the Common Areas, except such sales to liquidate the contents of any residence upon the vacating of such residence by an Owner or the death of an Owner. The vacating Owner or authorized representative of a deceased Owner's estate shall give the Board notice of such proposed sale at least ten (10) days prior to the proposed date.

Section 15. Flags and Flagpoles. An Owner may install a flagpole on the Lot, no higher than the height of the second story rooftop of any home in the community, after first obtaining the written approval of the Association. Flagpoles currently installed at the time of the recording of this amendment

shall be exempt from this requirement. The following flags may be flown on the Lot in accordance with the Federal Flag Code (Pd. 94-344): the United States flag, the Arizona state flag, the Gadsden flag, the flag of the United States Army, Navy, Air Force, Marine Corps, or the Coast Guard, the POW/MIA flag, an Arizona Indian Nations flag, and first responder flags; however, the Rules may limit the number of flags flown to no more than two at once. Other flags may be flown only with the prior written approval of the Board of Directors.

Section 16. Change of Use. Upon (i) adoption of a resolution by the Board of Directors stating that in the Board's opinion the then-present use of a designated part of the Common Area is no longer in the best interests of the Owners, and (ii) the approval of such resolution by the affirmative vote, written consent, or any combination thereof of Owners of fifty-one percent (51%) of the Lots of the Association at an Annual or Special Meeting of the Members, the Board of Directors shall have the power and the right to change the buildings, structures, and improvements thereon in any manner deemed necessary by the Board to accommodate the new use, provided such new use shall be for the benefit of the Owners.

ARTICLE V

Architectural Approval

Section 1. Improvements. The following procedures and policies will apply with respect to Improvements, Landscaping, Exterior Painting, Functional Alterations, or any other work Visible From Neighboring Property which in any way alters the original exterior appearance of any Lot or Unit without the prior approval of Board or the Architectural Committee established by the Board for that purpose. Pursuant to its rulemaking power, the Board shall establish a procedure for the preparation, submission, and determination of applications for any such alteration, addition or improvement.

a. **Plans.** No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, from their appearance on the date this Declaration is recorded shall be made or done without the prior written approval of the Architectural Committee.

b. **Changes.** Any change in the color or materials used on structures that are Visible from Neighboring Property and any change in the concept of landscaping that is Visible from Neighboring Property must have prior approval of the Board or a person or committee designated by the Board.

c. **Painting.** The residence on any Lot shall be painted with a non-glossy paint that is pure white in color, with no shading elements added. No Owner may paint less than his or her entire home, including any residential or pony walls on the Lot, with the exception of regular touch-ups and/or maintenance of the Lot.

d. **Denial of Approval.** The Board and the person or committee designated by the Board, when applicable, shall have the right to deny approval of any proposed Improvements or Landscaping which are not, in the opinion of the Board, suitable or desirable or aesthetic or any other pertinent reason.

e. **Approval Standards.** The Board or any person or committee designated by the Board shall have the right to take into consideration the effect of any proposed structure and the materials of which it is to be built upon the site where the structure is proposed to be constructed, its suitability with the surrounding area, and its effect upon adjacent and neighboring properties.

f. **Committee.** If the Board's powers under this Article are delegated to a committee, at least one Director must serve on the committee as the chairperson of the committee.

ARTICLE VI

WALLS

Section 1. Walls. Each owner shall be subject to the following provisions, limitations and restrictions regarding Party Walls, and other walls, including, but not limited to, pony walls, perimeter walls and Residential Walls constructed on the Property.

a. **Damage/Destruction Caused by Owner Acts.** If a Party Wall or other wall is damaged or destroyed through the act or acts of any adjoining Owner or his/her agents, employees, contractors, guests, or members of his family, whether such act or acts are intentional, negligent or accidental, such offending Owner shall forthwith proceed to rebuild or repair such Party Wall or other wall to as good a condition as formerly, all without cost to the Association or any other Owner. The failure to forthwith commence repairing or rebuilding of such Party Wall or other wall shall constitute sufficient reason for the Board to repair or rebuild it. Any cost to the Association of such repair or rebuilding, if not paid by such offending Owner within thirty (30) days after the Association gives such offending Owner notice of the amount due, shall be a lien against the Lot of the offending Owner and enforceable in the same manner as other Assessments.

b. **Damage/Destruction Without Owner Acts.** Any Party Wall damaged or destroyed by some act or event other than that produced by one of the adjacent Owners, his agent, servants, guests or family, shall be rebuilt or repaired by both adjoining Owners to the same condition as formerly at their joint and equal expense and as promptly as reasonably possible. The failure of adjoining Owners to affect such rebuilding or repairs as are reasonably necessary shall be sufficient reason for the Board of Directors of the Association to rebuild or repair said party wall and charge the Lots of both adjoining Owners. The cost incurred by the Association, if not paid by the Owners within thirty (30) days after the Association gives the Owners notice of the amount due, shall be a lien against the Lots owned by the adjoining Owners and enforceable in the same manner as other Assessments.

c. **Modification/Alteration of Walls.** Any Owner of a Lot who proposes to modify, rebuild, repair or make additions to his or her residence or to any other structure on the Lot in any manner which requires the extension, alteration or modification of any Party Wall(s) or other wall(s) first shall obtain the approval of the Board or the Architectural Committee, if one is formed, as well as the written consent of the adjacent Owner. An Owner's consent shall not be withheld unreasonably. Any existing walls at the time of recordation of this Declaration shall be exempt from this Section.

d. **Residential Wall.** For the purposes of general maintenance, the wall that actually constitutes the residence of an Owner shall not be considered a Party Wall and shall be maintained by the Owner of that residence, except in instances falling under the provisions of Section 1a. of this Article.

e. **Disagreements.** If the Owners of adjoining Lots disagree with respect to repair, reconstruction or maintenance of a Party Wall or other Residential, pony or perimeter wall or with respect to sharing the cost of repairing, rebuilding or maintaining it, then upon the written request of either of

the Owners the matter shall be presented to the Board for determination under such rules as may be from time to time adopted by the Board. The determination of the matter by the Board shall be binding upon all persons.

f. **No Private Agreements.** No private agreement of any adjoining property Owners shall modify or abrogate any of these Restrictions or the obligations, rights, duties and limitations set forth upon the individual Lot Owners by reason of the Articles or Bylaws.

g. **Binding Effect.** The covenants and agreements herein contained shall be binding upon the heirs, administrators, successors and assigns of the Owner, but no person shall be liable for any act of omission respecting the covenants herein contained, except any acts or omissions that took place while such person was an Owner in the Association.

ARTICLE VII

EASEMENTS

Section 1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to suspend the voting rights and the right to use the recreational facilities on the Common Area by an Owner or the Owner's lessee, tenant, family and invitee for any period during which any Assessment against the Owners Lot remains unpaid; or for a period not to exceed sixty (60) days for any infraction of these Restrictions and for additional periods of not more than sixty (60) days each for as long as the Assessment remains unpaid or the infraction of these Restrictions exists.

Section 2. Utilities Easement. There is hereby created an easement upon, across, over and under the Common Area and the Lots for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Area or Lots but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Area or Lots except as initially designed or as otherwise approved by the Board. This restriction shall not affect other recorded easements on the Property.

Section 3. Association's Easement for Maintenance. There is hereby created, for the benefit of the Association, an easement for reasonable access upon, across, over and under the Lots for the purposes of performing such maintenance and repair that the Association is authorized or obligated to perform.

Section 4. Owners' Easement for Maintenance. There is hereby created a nonexclusive and perpetual easement three (3) feet in width along the boundary line separating adjacent Lots for the maintenance, repairs, replacements, and additions to walls. Such easement shall be for the benefit of the adjacent Lot and each Owner and shall permit adjacent Owners and the Association or their representatives, when so required to enter such Owner's Lot for the above mentioned purposes; provided that requests for entry to a Lot shall be made in advance and such entry shall be at a time reasonably convenient to the Owner of such Lot. In the case of an emergency threatening life or property, such right of entry shall be immediate.

Section 5. Easement for Encroachments. If any portion of the Common Areas shall encroach upon any Lot, or if any structure constructed upon any Lot shall encroach upon any portion of the Common Areas, or if any structure constructed upon any Lot shall encroach upon any other Lot, whether such encroachment results from the initial construction or from subsequent repair, reconstruction, settlement or shifting, there shall be deemed to be mutual easements in favor of the Association as owner of the Common Areas and the respective Lot Owners involved to the extent of such encroachment so long as the same shall exist provided, however, that such easement shall not result from any alteration, addition or improvement made by an Owner without the prior written approval of the Association.

ARTICLE VIII

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Obligation for Assessments. The Owner of each Lot, by acceptance of a deed therefore, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay to the Association (i) annual Assessments or charges, and (ii) special Assessments, such Assessments to be established and collected as hereinafter provided. No Owner of a Lot may exempt himself or herself from liability for Assessments by waiver and non-use of any of the Common Areas or by the abandonment of his or her Lot. Both annual and special Assessments shall be fixed at identical rates for all Lots. Notices and invoices for payment of all Assessments shall be rendered by the Treasurer annually or at any other interval as may be fixed by the Board.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners, for the improvement and maintenance of the Common Areas, and for all purposes set forth in the Articles, including but not limited to, management fees, insurance premiums, and taxes unless otherwise provided for, expenses for maintenance, repairs, and replacements in Common Areas and the improvements thereon, charges for water and other utilities for the Common Areas, and reserves for ordinary repair and maintenance of the Common Area and Improvements thereon.

Section 3. Determination of Annual Assessments. The Board shall fix the amount of the annual Assessment (currently referred to as a "regular assessment" in the Arizona statutes) against each Lot at least thirty (30) days in advance of each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. Notwithstanding the foregoing, if the Association fails to fix the amount of the annual Assessment or provide written notice of the annual Assessment, each Owner will continue to pay an annual Assessment to the Association, in the amount of the annual Assessment from the previous year. The Board shall establish the due dates of the Assessments. The Association, upon demand by an Owner or prospective buyer and for a reasonable charge, shall furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

Section 4. Annual Assessments. The annual Assessment fixed by the Board shall not be an increase of more than ten (10%) percent over the amount levied in the previous fiscal year unless approved by the affirmative vote, written consent, or any combination thereof of Owners of fifty-one percent (51%) of the Lots of the Association at an Annual or Special Meeting of the Members.

Section 5. Special Assessments. In addition to the annual Assessments authorized above, the Association may not levy, in any Assessment year, a special Assessment for any Association purpose, unless approved by the affirmative vote, written consent, or any combination thereof of Owners of fifty-one percent (51%) of the Lots of the Association at an Annual or Special Meeting of the Members.

Section 6. Meeting to Approve Special Assessments. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4 and 5 of this Article shall be sent to all Owners not less than ten (10) days nor more than fifty (50) days in advance of the meeting.

Section 7. Delinquent Assessments. Any Assessments which are not paid when due shall be delinquent. Every delinquent Assessment shall be a lien upon the Lot of the Owner(s) against whom the Assessments are imposed, in addition to being the personal obligation of the Owner(s). If any such Assessment is not paid within thirty (30) days from the date it is due, a late fee may be charged, as governed by A.R.S. Section 33-1803. The amount of the Assessment, plus all late fees, collection fees and attorneys' fees and costs, shall become a lien upon the Lot against which such Assessment was levied. The Association may enforce the obligation for Assessments in any manner provided by law or in equity, including foreclosure by an action brought in the name of the Association, and the exercise of one remedy shall not prevent the Association from exercising any other remedy available by law or in equity. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a mortgage or trust deed as set forth by the laws of Arizona, as amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Owners. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any such Lot. All costs incurred by the Association in regard to lien filing and collection, including, but not limited to attorneys' fees, shall be paid by the delinquent Owner(s) before the lien will be released. In addition, the delinquent Owner's voting rights on all Association matters shall be suspended until the delinquency is paid.

ARTICLE IX

INSURANCE

Section 1. Insurance. The Association shall maintain, to the extent reasonably available, the following insurance coverage:

a. **Property.** Property insurance on the Common Areas insuring against "all risk" of direct physical loss in an amount equal to the maximum issuable 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 any excavations, foundations and other items normally excluded from a property policy.

b. **Liability.** 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 Common Areas and all other portions

of the Property, which the Association is obligated to maintain under these Restrictions or for which the Association is held liable.

c. **Other Insurance.** The Board, or its duly authorized agent, may obtain other insurance, including but not limited to, Directors and Officer liability insurance, fidelity, umbrella and/or worker's compensation insurance.

Section 2. Insurance Obtained by Owners. Each Owner shall be responsible for obtaining property insurance for his or her own benefit and at his or her own expense covering the Owner's Lot and residence, and all Improvements and personal property located therein or thereon. Each Owner shall also be responsible for obtaining at his or her expense personal liability coverage for death, bodily injury or property damage arising out of the use, ownership or maintenance of the Owner's Lot. The Board may require additional public liability insurance for Board approved special use functions in Common Areas such as weddings and pool parties which is to be provided at the sponsoring Owner's expense.

Section 3. Payment of Premiums and Deductible. The Association shall pay the premiums for any insurance obtained by the Association pursuant to this Article. The Board shall have the authority to adopt reasonable rules and procedures for the payment of the insurance deductible.

Section 4. Payment of Insurance Proceeds. With respect to any loss to the Common Areas 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 beneficiary under a deed of trust or mortgagee. Subject to the provisions of Section 5 of this Article, the proceeds shall be disbursed for the repair or replacement of the damage to Common Areas.

Section 5. Common Areas Repair and Replacement. Any portion of the Common Area damaged or destroyed shall be repaired or 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 owning at least eighty percent (80%) of all Lots in the Association vote not to rebuild at a meeting duly called for this purpose. The Association shall pay the cost of repair or replacement in excess of insurance proceeds and reserves. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Areas 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 be retained by the Association as an additional capital reserve.

ARTICLE X

GENERAL PROVISIONS

Section 1. Binding Nature. The restrictive covenants, conditions, limitations and agreements herein contained shall run with the land and shall be binding upon all persons purchasing, leasing or occupying any Lot or Lots in the Association.

Section 2. Enforcement. The Association shall have the right to enforce, by administrative action or any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Enforcement may include, but is not limited to, imposition of fines, appropriate legal action for injunctions or damages, action to

remediate violations by the Association hiring contractors to perform repair, construction, cleanup or other such self-help, all at owner's liability and expense, and filing of liens to secure payment of the costs of the foregoing, all in accordance with Rules established and published by the Association. Any Owner may request Board enforcement of the foregoing by a written request that specifies all details, or the Board itself may initiate such action. If the Association takes any action to enforce the provisions of the Association Documents, whether or not a lawsuit is filed, the Association shall be entitled to recover from the Owner against whom enforcement is sought all costs of enforcement, including but not limited to attorney's fees incurred by the Association. If, however, a lawsuit is filed, and the Owner is the prevailing party in such lawsuit, the Owner shall not be required to pay the Association's attorney's fees, court costs, costs of investigation and other related expenses incurred therewith. Said amounts shall be collectible in the same manner as Assessments. Owners shall also have the right to enforce these Restrictions except the obligation to pay Assessments. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Each remedy provided herein is cumulative and not exclusive.

Section 3. Amendment. These Restrictions may be amended at any time by the affirmative vote, written consent, or any combination thereof of Owners of fifty-one percent (51%) of the Lots of the Association at an Annual or Special Meeting of the members, and once such amendment is approved by the Board, signed and acknowledged by the President or Vice-President, and recorded, it shall be binding upon all such Owners, their heirs, administrators, successors and assigns. Notwithstanding the foregoing, the Board may amend these Restrictions without the vote of the Owners, solely for the purpose of complying with the law.

Section 4. Severability. The invalidity of any one of the agreements, covenants, restrictions, reservations or conditions herein contained by judgment, decree or court order or statutory provision in no way shall affect the validity of the remaining provisions of this instrument and the same shall remain in full force and effect.

Section 5. Interpretation. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of these Restrictions. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property bound by these Restrictions.

Section 6. Attorneys' Fees. If the Association incurs legal expenses and costs, including, but not limited to, attorney's fees, in bringing claims against Owners or defending claims brought by Owners in an administrative action or proceeding, including, but not limited to, proceedings before an Administrative Law Judge, the Association shall be entitled to recover its attorney's fees and costs from the Owner involved in the administrative proceeding if the Association is the prevailing party.

Section 7. Notice of Transfer of Ownership. The Owner of a Lot shall give the Association notice in writing within ten (10) days after action has been initiated with respect to the intended sale, transfer, or conveyance of such Lot.

Section 8. Notice of Violation. The Association shall have the right to record a written notice of a violation by any Owner or resident of any restriction or other provision of these Restrictions or Rules. Such notice shall be executed by an Officer of the Association and shall contain substantially the

following information: (i) the name of the Owner or resident violating, or responsible for the violation of, these Restrictions or Rules; (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 these Restrictions; and (v) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. A recorded notice of violation shall serve as notice to the Owner and resident, and any subsequent purchaser of the Lot, that there is such a violation. If, after recording such notice, it is determined by the Association that the violation referred to in the notice does not exist or 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, and 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 that the violation did not exist. Failure by the Association to record a notice of violation shall not constitute a waiver of any such violation, constitute any evidence that no violation exists with respect to any particular Lot or constitute a waiver of any right of the Association to enforce these Restrictions or Rules.

Section 9. Violation of Laws and Ordinances. Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of these Restrictions and subject to any or all of the enforcement procedures set forth herein.

CERTIFICATION

HILLCREST IMPROVEMENT ASSOCIATION, INC.

BY: Karen Husted (Signature)

Karen Husted (Print Name)

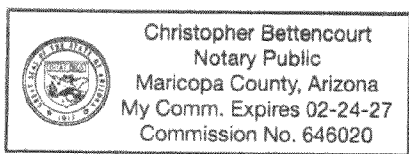
ITS: President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 8th day of May, 2023, by Karen Husted, the President of Hillcrest Improvement Association, Inc., an Arizona non-profit corporation, on behalf of the non-profit corporation.

Notary Public: [Signature]

My commission Expires: 2/24/2027



HILLCREST IMPROVEMENT ASSOCIATION, INC.

BY: Mary Schramm (Signature)

Mary L. Schramm (Print Name)

ITS: Secretary

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 8th day of May, 2023, by Mary Schramm, the Secretary of Hillcrest Improvement Association, Inc. an Arizona non-profit corporation, on behalf of the non-profit corporation.

STATE OF ARIZONA)
County of Maricopa
On this 8th day of May, 2023,
before me personally appeared Mary Schramm (name
of signer), whose identity was proved to me on the basis of
satisfactory evidence to be the person whose name is
subscribed to this document, and who acknowledged that
he/she signed the above/attached document.

[Signature]
Notary Public
My commission expires: 2/24/2027

