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**AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS FOR
SAMALAYUCA ESTATES**

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1 **AMENDED AND RESTATED**

2 **DECLARATION OF PROTECTIVE COVENANTS FOR**

3 **SAMALAYUCA ESTATES**

4 THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS FOR
5 SAMALAYUCA ESTATES (this "Declaration") is made this 31st day of January, 2021, by the owners
6 (the "Owners") of the real property described as:

7 Lots 1-48, inclusive, and Lots A and B of Samalayuca Estates, recorded in the office
8 of the Pima County Recorder, in Book 11, Maps and Plats, at page 7 (the
9 "Properties").

10 **RECITALS**

11 WHEREAS, heretofore on July 5, 1955, Lewis B. Price and Wilma F. Price, as Owners of the
12 properties known as Samalayuca Estates, according to the plat recorded in the office of the Pima
13 County Recorder, in Book 11, Maps and Plats, at page 7, established certain conditions and
14 restrictions for the improvement and development of said subdivision, which document entitled
15 Declaration of Establishment of Conditions and Restrictions (hereinafter referred to as the "
16 Original Restrictions") was recorded in Book 863 at pages 65 through 67, in the office of the Pima
17 County Recorder, Pima County, Arizona, and was subsequently amended by documents recorded
18 in Book 1127, pages 35 and 36, Book 1481, pages 524 through 526, and Book 2272, pages 91
19 through 95; and

20 WHEREAS, said Original Restrictions, by the terms thereof, expired on December 31,
21 1980; and

22 WHEREAS, the Owners of Lots 1-48, inclusive, and Lots A and B of Samalayuca Estates
23 subsequently established a Declaration of Protective Covenants for Samalayuca Estates, which
24 was recorded on February 24, 1983, in Docket 6975 at pages 771 through 827, in the office of the
25 Pima County Recorder, Pima County, Arizona (the "Protective Covenants"); and

26 WHEREAS, at least fifty-one percent (51%) of the Owners voted to amend the Protective
27 Covenants on May 12, 1997; and

28 WHEREAS, on November 18, 2003 that certain Amended Declaration of Protective
29 Covenants for Samalayuca Estates was recorded in Docket 12179 at Page 4402, et seq., said
30 Amended Declaration being a compilation of the Declaration and all amendments thereto with
31 modifications to the "Recitals" section to clarify the history and purpose of the Amended
32 Declaration, and with paragraph headings inserted in the Amended Declaration for ease of use,
33 and not for the purpose of making any substantive changes; and

34 WHEREAS, over the course of further Lot development, it is recognized there are now 51
35 Lots (as defined within this document) within the subdivision; and

1 *valorem* taxes and assessments and such other matters as are recognized in such First Mortgage
2 as permitted exceptions.

3 1.10. "Governing Documents" shall mean this Declaration; the Articles of Incorporation
4 and Bylaws of the Association; and any rules and regulations promulgated by the Board of
5 Directors.

6 1.11. "Improvement" shall mean buildings, roads, driveways, parking areas, fences,
7 walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping
8 improvements of every type and kind.

9 1.12. "Lot" shall mean the parcels of land within the Properties as shown on the Plat
10 designated as lots by number or letter, except for Lot A, together with any improvements
11 constructed or under construction thereon (but without regard to whether or not there is any
12 such structure thereon), including any new Lot or Lots created by subdividing any Lot or
13 combining two or more adjacent Lots or portions thereof.

14 1.13. "Member" shall mean every Person who holds membership in the Association.

15 1.14. "Mortgage" shall include any mortgage, deed of trust or other consensual security
16 instrument by which a Lot or any part thereof is encumbered, evidenced by an instrument in
17 recordable form. The term "Mortgagee" shall include a beneficiary under a Deed of Trust, and
18 the term "First Mortgagee" shall mean the holder of any Mortgage or the beneficiary of any deed
19 of trust under which the interest of any Owner of a Lot is encumbered and which Mortgage or
20 deed of trust has first and paramount priority, subject only to the lien of general or ad valorem
21 taxes and assessments (which shall be referred to herein as a "First Mortgage").

22 1.15. "Owner" shall mean the record holder, whether one or more Persons, of the fee
23 simple title to any Lot which is part of the Properties, but excluding: (A) Persons holding an
24 interest merely as security for the performance of an obligation, (B) a purchaser under a purchase
25 contract and receipt, escrow instructions or similar executory contract which is intended to
26 control the rights and obligations of the parties to the executory contract pending the closing of
27 a sale or purchase transaction; and (C) a lessee or tenant of a Lot. Owner shall include a Purchaser
28 under a contract for the conveyance of real property, a contract for deed, a contract to convey,
29 an agreement for sale or any similar contract through which a seller has conveyed to a Purchaser
30 equitable title to a Lot under which the seller is obligated to convey to the Purchaser the
31 remainder of seller's title in the Lot, whether legal or equitable, upon payment in full of all monies
32 due under the contract. In the case of Lots owned in trust or by an individual in his or her capacity
33 as a trustee, the grantor of the trust shall be deemed to be the Owner, unless the grantor of the
34 trust is deceased, incapacitated or otherwise not able to act as Owner, in which case the trustee,
35 or any successor trustee, shall be deemed to be the Owner.

36 1.16. "Person" shall include a corporation, company, partnership, firm, association or
37 society, as well as a natural person.

1 1.17. "Plat" shall mean the plat of Samalayuca Estates recorded in the office of the Pima
2 County Recorder, in Book 11, Maps and Plats, at page 7.

3 1.18. "Properties" shall mean the real property shown on the Plat.

4 1.19. "Rules and Regulations" or "Rules" shall mean any and all policies and procedures
5 adopted by the Board which govern the conduct and actions of Owners, tenants, visitors and
6 guests on the Properties.

7 **ARTICLE 2: GENERAL PROVISIONS**

8 2.1. Binding Effect. By acceptance of a deed or acquiring any ownership interest in any
9 Lot, each person or entity, for himself or itself, his or its heirs, personal representatives,
10 successors, transferees and assigns, binds himself, his heirs, personal representatives,
11 successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions,
12 rules and regulations now or hereafter imposed by this Declaration and amendments thereof. In
13 addition, each such person by so doing thereby acknowledges that this Declaration sets forth a
14 general scheme to the development of the Properties and hereby evidences his intent that all
15 restrictions, conditions, covenants, rules and regulations contained herein shall run with the land
16 and be binding on all subsequent and future owners, grantees, purchasers, assignees and
17 transferees thereof.

18 2.2. Mortgagee Protection. No breach of the provisions, conditions, restrictions or
19 covenants contained within this Declaration shall defeat or render invalid the lien of any
20 Mortgage made in good faith for value as to any portion of the Properties. Such provisions,
21 conditions, restrictions and covenants shall be enforceable against any portion of the Properties
22 acquired by any person through foreclosure or by deed in lieu of foreclosure or any breach
23 occurring after such acquisition.

24 2.3. Severability. Invalidation of any covenant, restriction, provision or term of this
25 Declaration by judgment or court order shall not affect any other covenant, restriction, provision
26 or term hereof which shall remain in full force and effect.

27 2.4. Amendment. This Declaration may be amended at any time by the affirmative
28 vote of the Owners of at least 51% of the Lots. Any amendment to this Declaration shall be
29 evidenced by a written document signed by the President and Secretary of the Association,
30 attesting that the requisite number of Owners consented to such amendment; and shall become
31 effective on the date the amendment is recorded at the office of the Recorder of Pima County,
32 Arizona.

33 2.5. Captions and Titles. All captions and titles used in this Declaration are intended
34 solely for convenience or reference purposes only and in no way define, limit or describe the true
35 intent and meaning of the provisions hereof.

36 2.6. Interpretation of the Covenants. The Association, by the Board, shall have the
37 exclusive right to construe and interpret the provisions of this Declaration and all other Governing

1 Documents. In the absence of any adjudication to the contrary by a court of competent
2 jurisdiction, the Association's construction or interpretation of the provisions hereof or of any
3 other Governing Document, shall be final, conclusive, and binding as to all Persons and property
4 benefited or bound by this Declaration.

5 **ARTICLE 3: THE ASSOCIATION**

6 3.1. Purpose. The Association is a non-profit corporation that serves as the governing
7 body for all Owners, regulating and controlling the use of the Properties for the common benefit
8 of the current and future Owners.

9 3.2. Membership. Each Owner of a Lot shall automatically be a Member of the
10 Association. Membership in the Association shall be appurtenant to each Lot owned and shall
11 not be transferred, pledged, or alienated in any way, except upon the transfer of ownership to a
12 Lot, and then only to the transferee thereof. Upon any transfer of ownership of a Lot, said
13 membership shall automatically pass to the new Owner. Any attempted transfer of membership
14 separate from the appurtenant Lot or Lots shall be void.

15 3.3. Voting Rights. There shall be one vote for each Lot, which vote may be exercised
16 by the Owner or Owners of the Lot in accordance with the Bylaws.

17 3.4. Association Responsibilities. The Association, through the Board of Directors, is
18 responsible for the protection, improvement, alteration, maintenance, repair, replacement,
19 administration, management, operation, and liability of the Common Areas. The Association is,
20 to the extent applicable, responsible for:

21 3.4.1. The enforcement of the provisions of the Governing Documents.

22 3.4.2. The operation, maintenance, regulation, and repair of the Common Areas
23 and improvements thereon.

24 3.4.3. The insurance of all improvements which the Association is obligated to
25 maintain against damage by casualty with such companies and with such limits as
26 the Board deems appropriate.

27 3.4.5. The maintenance of such liability insurance as the Association deems
28 necessary to protect the Members and the Board of Directors of the Association
29 from liability for conditions existing and events occurring on or about the Common
30 Areas, including, but not limited to, directors' and officers' liability insurance for
31 the Board of Directors of the Association;

32 3.4.6. The establishment and maintenance of such cash reserves as the Board of
33 Directors in its sole discretion deems reasonably necessary for the maintenance
34 and repair of the Improvements for which the Association is responsible and for
35 unforeseen contingencies;

1 3.4.7. The hiring, firing, supervision and paying of employees and independent
2 contractors (including, but not limited to, workers, landscapers, attorneys,
3 accountants, and contractors) to carry out the obligations set forth in the
4 Governing Documents.

5 3.4.8. The entering into of such agreements and the taking of such actions as are
6 reasonably necessary and convenient for the accomplishment of the obligations
7 set forth above; the administration of the Association; and the operation and
8 maintenance of the Common Areas and facilities located thereon.

9 3.5. Governing Documents. The manner in which the Association carries out its
10 responsibilities shall be controlled by the provisions of the Governing Documents. In the event of
11 any dispute or disagreement relating to the Properties between any Owners or any other Persons
12 subject to this Declaration, or any question of interpretation or application of the provisions of
13 this Declaration and any of the other Governing Documents, this Declaration shall control. In
14 the event of any conflict between the Articles and the Bylaws of the Association, the Articles shall
15 control. In the event of any conflict between any provision of the Rules and any provisions of the
16 other Governing Documents, the provisions of the Rules shall be deemed to be superseded by
17 the provisions of any other Governing Document, to the extent of any such conflict.

18 3.6. Rules and Regulations of the Association. The Board is empowered to adopt,
19 amend, or repeal such rules and regulations as it deems reasonable and appropriate (collectively,
20 the "Rules"), which shall be binding upon all Persons subject to this Declaration and shall govern
21 the use or occupancy of the Properties. The Rules shall govern such matters as the Board deems
22 to be in furtherance of the purposes of the Association, including, without limitation, the use of
23 the Common Area. The Rules may be adopted, amended, or repealed at any special or regular
24 meeting of the Board upon a vote of a majority of all the Directors, and shall take effect after 30
25 days' written notice to the Owners, unless the rule(s) being adopted, amended or repealed has
26 a compelling health or safety purpose, in which case seven days' notice to the Owners is required.

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

1 **ARTICLE 4: COVENANTS FOR ASSESSMENTS**

2 4.1. Creation of the Lien and Personal Obligation to Pay Assessments. Each Owner,
3 upon the recordation of a deed to any Lot, whether or not it shall be so stated in such deed,
4 agrees and covenants to pay to the Association: (A) Annual Assessments or charges, (B) Special
5 Assessments, and (C) Reimbursement Assessments. These Assessments shall be established and
6 collected as provided in this Article. All Assessments levied against a Lot, together with interest
7 from the date of delinquency until paid, late fees, costs and reasonable attorneys' fees, shall be
8 charged against the Lot and shall be a continuing lien upon the Lot. Such lien shall be deemed to
9 have attached as of the date of recordation of the Protective Covenants, and shall be senior to
10 all matters other than tax liens for real property taxes on the Lot, assessments on the Lot in favor
11 of any municipal or other governmental assessing unit, reservations in patents, and the lien of
12 any First Mortgage. Delinquent Assessments, together with interest, late fees, costs of collection,
13 including but not limited to reasonable attorneys' fees and taxable court costs, also shall be the
14 personal obligation of the person who was the Owner of such Lot at the time when the
15 Assessment was levied, and shall bind his/her heirs, devisees, personal representatives and
16 assigns. Except as otherwise provided herein, the personal obligation for delinquent
17 Assessments shall not pass to successors in title unless expressly assumed by them.

18 4.2. Purpose of Assessments. The Assessments levied by the Association shall be used
19 exclusively to promote the recreation, health, safety, welfare, and enjoyment of the residents in
20 the Properties, for the improvement and maintenance of the Common Area, enforcement of the
21 Governing Documents, and the establishment of reasonable reserves for anticipated future
22 expenditures for such purposes.

23 4.3. Annual Assessment. The Board shall determine the amount of the Annual
24 Assessment in its sole discretion, based upon the operating budget of the Association, including
25 appropriate reserves. The amount of the Annual Assessment may not be increased more than
26 10% over the previous year's Assessment without the affirmative vote of a majority of the
27 Members of the Association in person or by absentee ballot at an annual meeting or at a special
28 meeting duly called for this purpose. The vote also may be by written ballot in place of a meeting.
29 The Board of Directors may make the Annual Assessment payable in semi-annual, quarterly, or
30 monthly installments in its sole discretion.

31 4.3.1. Budgeting. Each year, the Board shall prepare, approve and make
32 available to each Member, a budget containing: (A) estimated revenue and
33 expenses; and (B) the amount of total cash reserves of the Association currently
34 available for replacement or repair of the Common Area or other areas within the
35 Properties which the Association is responsible to repair and maintain, and for
36 contingencies. The total amount needed to fund the annual budget shall be
37 charged equally against all Lots as Annual Assessments, subject to any limitations
38 set forth in the Governing Documents. The Board shall prepare and approve the
39 annual budget and distribute a copy to each Lot Owner, together with written
40 notice of the amount of the Annual Assessment to be levied against the Owner's

1 Lot, not less than 15 days nor more than 60 days prior to the beginning of the fiscal
2 year.

3 4.3.2. Non-Waiver of Assessments. If before the expiration of any fiscal year the
4 Association fails to fix the Annual Assessments for the next fiscal year, the Annual
5 Assessment established for the preceding year shall continue until a new Annual
6 Assessment is fixed.

7 4.4. Special Assessments. Special Assessments may be recommended by the Board of
8 Directors, in addition to the Annual Assessment for: (A) constructing capital improvements; (B)
9 correcting an inadequacy in the current operating account; (C) defraying, in whole or in part, the
10 cost of any construction, reconstruction, repair or replacement of improvements in the Common
11 Area; or (D) paying for such other matters as the Board may deem appropriate for the Properties
12 or the good and welfare of the Members. Special Assessments require the approval of two-thirds
13 of the Members who are voting in person or by absentee ballot at an annual meeting or at a
14 special meeting duly called for this purpose at which a quorum is present. The vote also may be
15 by written ballot in place of a meeting. Monies collected as a Special Assessment shall be used
16 only for the purpose(s) stated during the approval process.

17 4.5. Reimbursement Assessment. The Association may levy a Reimbursement
18 Assessment if: (A) Any Owner, his/her family member, tenant, guest or invitee, has failed to
19 comply with the Association's Governing Documents, which failure has necessitated an
20 expenditure of money by the Association to bring the Owner or his Lot into compliance; or (B)
21 Any Owner, his family member, tenant, guest or invitee has caused damage to the Common Area.
22 A Reimbursement Assessment shall not be levied by the Association until notice and an
23 opportunity for a hearing has been given to the pertinent Owner. Reimbursement Assessments
24 may be enforced in the same manner as Annual Assessments.

25 4.6. Reserve Fund.

26 4.6.1. Requirement for Reserve Fund. The Association shall maintain a separate
27 reserve account with the funds therein being used for the periodic maintenance,
28 repair and replacement of the Common Area.

29 4.6.2. Funding the Reserves. To the greatest extent possible, the reserve fund
30 shall be funded by a portion of the Annual Assessments rather than by Special
31 Assessments; provided however, that this provision shall not be deemed to limit
32 the power of the Association to levy any Assessment or charge authorized by this
33 Declaration.

34 4.6.3. Management of Reserves. The reserves which are collected as part of the
35 Annual Assessments shall be deposited by the Association in a separate bank
36 account to be held in trust for the purposes for which they are collected or
37 allocated. Such reserves shall be deemed a contribution to the capital account of
38 the Association by the Owners and, once paid; no Owner shall be entitled to any

1 reimbursement of those funds. The Board is only responsible for providing for
2 such reserves as the Board, in good faith, deems reasonable, and no member of
3 the Board is liable to any Owner or to the Association if the amount in the reserve
4 account proves to be inadequate.

5 4.7. Uniform Rate of Assessment and Due Dates. All Annual Assessments and Special
6 Assessments must be fixed at a uniform rate for all Lots. Annual Assessments shall be due and
7 payable on January 1 of each year, or as otherwise determined by the Board.

8 4.8. Certificate of Payment. The Association shall, upon demand, and for a reasonable
9 charge, furnish a certificate signed by an officer of the Association setting forth whether the
10 Assessments on a specified Lot have been paid. A properly executed certificate of the Association
11 as to the status of the Assessments on a Lot is binding upon the Association as of the date of its
12 issuance.

13 4.9. Effect of Non-Payment of Assessments; Remedies of the Association. If any
14 Assessment is not paid within 30 days of its due date, a late fee and interest may be charged, in
15 an amount to be determined by the Board of Directors. If a check tendered for any Assessment
16 is returned as unpaid for any reason, a charge shall be assessed, as determined by the Board of
17 Directors. If the Association employs an attorney to collect a delinquent assessment, whether by
18 foreclosure of the lien created herein or otherwise, the delinquent Owner shall pay, in addition
19 to the Assessments and interest accrued thereon, such reasonable attorneys' fees and all other
20 costs and expenses incurred by the Association as a result of the delinquency. In addition to all
21 other remedies provided by law, the Association, or its authorized representative, may enforce
22 the obligations of any Owner to pay the Assessments in any manner provided by law or in equity,
23 or without any limitation to the foregoing, or by either or both of the following procedures:

24 4.9.1. Civil Action. The Board may cause a civil action to be commenced and
25 maintained in the name of the Association against any Owner who is personally
26 obligated to pay delinquent Assessments. Any judgment obtained in the
27 Association's favor shall include the amount of the delinquent Assessments,
28 interest and late fees; any additional charges incurred by the Association; and any
29 other amounts the court may award, including reasonable attorneys' fees and
30 court costs. A proceeding to recover a judgment for unpaid Assessments may be
31 maintained without the necessity of foreclosing or waiving the Association's lien.

32 4.9.2. Enforcement of Lien. As provided in Section 4.1 above, all Assessments,
33 plus late fees, interest and costs connected therewith, shall be a continuing lien
34 upon the Lot assessed.

35 A. Notice and Perfection of Lien. As more fully provided in A.R.S. §33-
36 1807, the recording of the Protective Covenants constitutes record notice
37 and perfection of the Association's lien. The Association is not required to
38 record a notice of lien, but may do so to provide notice to third parties of
39 its interest in a Lot. The Association's lien is senior to all matters other

1 than tax liens for real property taxes on the Lot, Assessments on the Lot in
2 favor of any municipal or other governmental assessing unit, reservations
3 in patents, and the lien of any First Mortgage. Except for the transfer of a
4 Lot pursuant to a foreclosure of a First Mortgage, the sale or transfer of a
5 Lot does not affect the Association's lien.

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

18 4.10. No Offset; No Exemption of Owner. No offset against any Assessment shall be
19 permitted for any reason, including, without limitation, any claim that the Association is not
20 properly discharging its duties. No Owner is exempt from liability for payment of Assessments
21 because he/she does not use or enjoy the Common Area, or has abandoned his/her Lot, or for
22 any other reason, including (but not limited to) any allegation that the Board of Directors is not
23 performing its obligations under the Association's Governing Documents.

24 4.11. Subordination of the Lien to First Mortgages; Sale or Transfer of Lots The lien for
25 Assessments provided for herein, including without limitation any fees, costs, late charges, or
26 interest which may be levied by the Association in connection with unpaid Assessments, shall be
27 subordinate to the lien of any First Mortgage. Sale or transfer of any Lot pursuant to foreclosure
28 of any such First Mortgage or any proceeding in lieu thereof, including deed in lieu of foreclosure,
29 or cancellation or forfeiture of such executory land sales contract, shall extinguish the lien of
30 Assessments or charges which became due prior to any such sale or transfer, or foreclosure, or
31 any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture
32 of any such executory land sales contract; provided, however, that any such delinquent
33 Assessments or charges, including interest, late charges, costs, and reasonable attorneys' fees,
34 which are extinguished as provided herein, may be reallocated and assessed to all Lots as a
35 common expense or may be expressly assumed by a Successor Owner. No such sale, transfer,
36 foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor
37 cancellation or forfeiture of such executory land sales contract, shall relieve any Owner of a Lot
38 from liability for any Assessments or charges thereafter becoming due, nor from the lien thereof.
39 In the event of foreclosure of a First Mortgage or the taking of a deed in lieu thereof, such First
40 Mortgagee shall not be liable for unpaid Assessments or other charges which accrued prior to
41 the acquisition of title to the Lot in question by such First Mortgagee.

1 4.12. Mortgage Protection and Additional Assessment as Common Expense.

2 Notwithstanding and prevailing over any other provisions of this Declaration, or the Association's
3 Articles or Bylaws, or the Rules, the following provisions shall apply to and benefit each First
4 Mortgagee of a Lot:

5 4.12.1. First Mortgagees shall not be personally liable for the payment of any
6 Assessment or charge, nor for the observance or performance of any covenant,
7 restriction, regulation, Rule, Article or By-Law, except for those matters which are
8 enforceable by injunctive or other equitable actions, not requiring the payment of
9 money, nor shall a First Mortgagee be liable for any violation of the Restrictions
10 that occurred prior to such First Mortgagee acquiring title.

11 4.12.2. During the pendency of any proceeding to foreclose the first mortgage,
12 including any period of redemption, the mortgagee (or receiver appointed in such
13 action) may, but is not required to, exercise any or all of the rights and privileges
14 of the Owner of the mortgaged Lot, including (but not limited to) the exclusion of
15 the Owner's exercise of such rights and privileges.

16 4.12.3. At such time as the First Mortgagee becomes the record Owner of a
17 Lot, he, she or it shall be subject to all of the terms and conditions of this
18 Declaration, including but not limited to, the obligation to pay for all Assessments
19 and charges accruing thereafter, in the same manner as any Owner.

20 4.12.4. The First Mortgagee, or any other party acquiring title to a mortgaged
21 Lot through foreclosure suit or through any equivalent proceeding arising from
22 said First Mortgage, such as, but not limited to, the taking of a deed in lieu of
23 foreclosure, shall acquire title to the mortgaged Lot free and clear of any lien
24 authorized by or arising out of any of the provisions of this Declaration or Bylaws
25 which secured the payment of any Assessment for charges accrued prior to the
26 final conclusion of any such foreclosure suit or equivalent proceeding, including
27 the expiration date of any period of redemption.

28 4.12.5. First Mortgagees are entitled to pay taxes or other charges which are in
29 default and which may or have become a charge against any Common Area owned
30 by the Association, and such First Mortgagees may pay overdue premiums on
31 hazard insurance policies, or secure new hazard insurance coverage on the lapse
32 of a policy, for such Common Area, and any First Mortgagees making such
33 payment may be owed immediate reimbursement from the Association.

34 4.12.6. Nothing in this Declaration shall in any manner be deemed to give an
35 Owner, or any other party, priority over any rights of a First Mortgagee of a Lot
36 pursuant to the terms of such First Mortgagee's mortgage in the case of a
37 distribution to an Owner of insurance proceeds or condemnation awards for
38 losses or to a taking of any Lot or any part of the Common Area owned by the
39 Association.

1 **ARTICLE 5: MAINTENANCE**

2 5.1. Common Area. As set forth in Section 3.4, the Association is responsible to
3 maintain all Common Area. Such maintenance includes, but is not limited to landscaping, and
4 control of erosion and weeds, as well as maintenance and repair of the private well facilities
5 located thereon.

6 5.2. Owner's Maintenance Responsibilities.

7 5.2.1. Each Owner shall be responsible for the maintenance and repair of his/her
8 Lot, Dwelling Unit and any other Improvements on the Lot, including, but not
9 limited to, utility costs, ad valorem taxes, appliances, heating and cooling units,
10 and all other exterior and interior repairs and maintenance.

11 5.2.2. Each Owner is responsible for landscaping and maintaining the appearance
12 of his/her Lot, as well as within the adjacent right-of-way between the Lot line and
13 the edge of the paved roadways. This maintenance responsibility includes, but is
14 not limited to, trees, shrubs, groundcover, driveways, and walks. Owners shall be
15 responsible throughout the calendar year for the control of weeds on their Lots to
16 prevent an unsightly appearance and the dissemination by wind or water of weed
17 seeds to other parts of the Association or neighboring subdivisions. Shrubs, trees,
18 and other vegetation on the Lots and within the rights-of-way shall be trimmed
19 and otherwise maintained so as not to impede traffic on the roadways.

20 5.2.4. Native growth on the Properties, including indigenous cacti, trees, shrubs,
21 and groundcover, shall not be destroyed or removed from any of the Lots except
22 as may be necessary for the construction and maintenance of Dwelling Units and
23 improvements, including roads, driveways, and/or walled-in private yards and
24 patios, excepting land that is cleared for the purpose of planting trees, shrubs,
25 etc., to beautify the acreage.

26 5.2.5. If any Dwelling Unit is destroyed in whole or in part as the result of fire or
27 any other cause whatsoever, the Owner must repair or promptly rebuild the
28 structure. After written notice, if the Owner of such damaged or destroyed
29 building fails to take the necessary steps to repair or rebuild such dwelling, then
30 such Owner shall remove the remaining portion of such damaged or destroyed
31 dwelling and maintain and keep such Lot in a clean and sanitary condition, and
32 such Owner further shall repair or restore any sewers, patio walls, sidewalks or
33 Common Area damaged as a result of fire or by any other cause whatsoever.

34 5.3. Failure to Maintain. If any Owner fails to fulfill his or her obligations under Section
35 5.2, and after approval by two-thirds (2/3) vote of the Board of Directors, the Association shall
36 have the right through its agents and employees, after advanced written notice of no less than
37 10 business days, to enter upon the Lot, and to repair and maintain as needed in the sole
38 discretion of the Board. The cost of such maintenance and repair shall be a Reimbursement

1 Assessment, and an invoice shall be a sent to the Owner, which shall be due and payable within
2 30 days of its date.

3 ARTICLE 6: ARCHITECTURAL REVIEW

4
5 **6.1. Architectural Committee.** Architectural Committee members shall be appointed or removed
6 by the Board of Directors, in its sole discretion, to serve on the Committee. The Chair of the
7 Architectural Committee shall be a member of the Board and there shall be no less than two
8 other members. All architectural matters within the Properties shall be subject to the
9 discretionary review of the Architectural Committee, except as otherwise provided herein.

10
11 **6.2. Architectural Guidelines.** The Architectural Committee may adopt and amend written rules
12 and regulations concerning the construction, alteration, repair, modification or addition to any
13 Dwelling Unit, garage, walls, fences, landscaping, or any other Improvement on a Lot.
14 {"Architectural Improvement"}, subject to the approval of the Board of Directors. Such rules and
15 regulations shall be promulgated in accordance with Section 3.6 of this Declaration.

16
17 **6.3. Building Requirements.** Each Dwelling Unit shall have an interior ground floor living area of
18 not less than 1,650 square feet (exclusive of open porches, patios, guest houses, or an attached
19 carport or garage). No more than two (2) storage sheds or similar structures may be placed or
20 constructed on a Lot, provided they are commercially available structures, no larger than 200
21 square feet in size each, and painted to match the residence, subject to approval by the
22 Architectural Committee. Elevation of the top of the roof or parapet of any addition or alteration
23 shall be in harmony and compatible with the existing or approved Dwelling Unit. Any mechanical
24 or plumbing equipment or appurtenances, other than the original construction, shall either be
25 concealed behind a suitable screen, or, if mounted on a flat roof, painted to match the color of
26 the roof and not extend more than one foot above the parapet (flues and chimneys are exempt).

27
28 **6.4. Submission of Plans.** All plans for any architectural modification on a Lot, including changes
29 to any landscaping or any existing vegetation on a Lot, must be submitted in writing (printed
30 copies of 11"x17" or larger size preferred for ease of viewing) to the Architectural Committee for
31 review and consideration. Plans may be submitted to the Architectural Committee at any Board
32 of Directors meeting, Members meeting, or directly to a member of the Committee.

33
34 **6.4.1. Timing.** The Architectural Committee shall have ten (10) business days to complete
35 its review of the submitted plans, and either approve (with or without conditions) or deny
36 the requested modification, or request additional submission to supplement or clarify the
37 original submission as the Committee may deem necessary. In the event that additional
38 information is requested by the Committee, the time required for review will be put on
39 hold, until the additional information is provided and then another ten (10) business day
40 period shall commence.

41
42 **6.4.2. Authority.** The Committee shall have the sole authority to approve or deny plans

1 submitted for review, and the decision of the Committee shall be deemed final, subject
2 only to appeal to the Board of Directors.
3

4 **6.5. Appeal.** Within ten (10) business days of the date of any decision of the Committee, an Owner
5 may appeal the decision of the Committee in writing to the Board of Directors, who shall hold a
6 hearing on the appeal at a meeting of the Board of Directors, in open session, unless the
7 homeowner requests that the hearing be in closed session. The decision of the Board shall be
8 final.
9

10 **6.6. Requirements for Submission.** All submissions to the Committee shall include the following
11 information concerning the proposed architectural modification: 1) Materials, 2) Size, 3)
12 Location, and 4) Any other specific information required by the Committee which may be unique
13 to the proposed architectural modification.
14

15 **6.6.1. Material.** In accordance with the Declaration, the building materials used for any
16 architectural modification shall be of the same, kind, type, style, and material of the
17 approved residence on the Lot. As to any landscaping change, all vegetation must either
18 be native, drought resistant, or approved in writing by the Committee or Board.
19 Landscaping shall include but not be limited to any vegetation, ground cover, gravel, rock,
20 and decorative elements such as containers and pots, sculptures, and other yard art and
21 similar items and articles, as determined in the sole discretion of the Committee and the
22 Board of Directors.
23

24 **6.6.2. Size.** No structure on a Lot shall be taller than thirteen (13) feet from ground level
25 to the highest point of the structure, unless the Board of Directors grants a variance to
26 the height restriction. All structures shall be attached to the main residence unless
27 specifically allowed separately by these standards, or by variance granted by the Board of
28 Directors. Except as specifically required by the Declaration, the Committee shall have the
29 discretion to establish minimum and maximum square footage requirements for any
30 architectural modifications on a Lot to ensure that the architectural harmony is
31 maintained throughout the community, and that other restrictions in the Declaration
32 including but not limited to the restriction against removal of excessive native growth on
33 the Lot are recognized and enforced.
34

35 **6.6.3. Location.** All architectural modifications shall comply with all setbacks established
36 in the Declaration, and as otherwise required by applicable law. The location of any
37 architectural modification on a Lot should consider the possible negative impact on
38 neighboring Lots and residents, and be compatible with the nature and harmony of uses
39 in the community.
40

41 **6.6.4. Other Standards.** The Committee may adopt in its sole discretion additional
42 standards pertinent to architectural modifications on the Lots. Said standards shall be
43 adopted and published on the Association website.

1 6.6.5. Variance. The Board of Directors shall be authorized to grant a variance to any
2 architectural standard upon request of an Owner and a specific showing that the standard
3 causes an extreme hardship unique to the condition and characteristics of the Lot in
4 question and that the variance would not unreasonably burden or cause significant
5 detriment to the use and enjoyment of any adjoining neighboring Lot; or otherwise that
6 the variance is in the best interest of the community as a whole.
7

8 6.7. Submittal by Member of Committee. If a member of the Architectural Committee wishes to
9 alter, remodel, and/or add to his/her existing structure, a substitute member may be appointed
10 by the Board of Directors to the Architectural Committee to, in conjunction with the remaining
11 members of the Committee, approve or disapprove said plans and specifications.
12

13 6.8. Inspection. The Committee and the Board of Directors shall have the right to inspect a Lot
14 from any public vantage point for purposes of determining and verifying compliance with the
15 Declaration, any architectural standards, and any approval or denial of submitted plans by the
16 Committee. Upon five (5) business days' written notice in advance, the Committee and the Board
17 of Directors shall have the right to enter onto a property for the purposes provided above.
18

19 6.9. Violations. If an Owner makes unapproved Architectural Improvements upon his/her Lot or
20 Architectural Improvements that do not conform to the plans and construction schedule
21 submitted to and approved by the Architectural Committee, the Committee shall give written
22 notice to the Owner that shall specify the nature of the nonconformity of the Architectural
23 Improvements and shall grant the Owner an opportunity to cure the nonconformity or request a
24 hearing before the Board of Directors. If the matter is not resolved, the Association has the right
25 to avail itself of all applicable legal and equitable remedies. These may include one or both of
26 the following:
27

28 6.9.1. Monetary Penalties. The Board of Directors may impose a reasonable monetary
29 penalty for a documented violation of the Declaration, architectural standards, or
30 approved or denied plans by the Committee, or alternatively impose continuing fines for
31 any such violation that continues unabated until such time as the noncompliant
32 architectural modification is removed or otherwise brought into compliance. Such fines
33 are the personal responsibility of the offending Owner, and are collectible in the same
34 manner as assessments.
35

36 6.9.2. Legal Action. The Board of Directors In its sole discretion may refer the matter to
37 an attorney for a lawsuit to obtain any appropriate legal or equitable relief. The
38 Association shall be entitled to recover and collect all legal expenses and fees incurred
39 from the Owner.
40

41 6.10. Limitation of Liability. Although the Architectural Committee shall have the right to reject
42 plans and specifications for reasons which may include their failure to comply with zoning or
43 building ordinances or other governmental regulations or restrictions, or on the basis that such
44 plans and specifications appear to be defective or not prepared in accordance with sound

1 engineering practices, the approval of plans and specifications shall not constitute a
2 representation, warranty or guarantee that such plans and specifications comply with proper
3 engineering or design principles, with zoning or building ordinances or with other governmental
4 regulations or restrictions. By approving plans and specifications, neither the Board of Directors,
5 the Architectural Committee, nor any of its members assumes any liability or responsibility
6 therefor, or for any defect in the structure constructed from such plans and specifications.
7 Neither the Board of Directors, the Architectural Committee, nor any of their members shall be
8 liable for damages or otherwise to any person submitting requests or plans for approval, or to
9 any Owner of land subject to these covenants, by reason of any action, mistake in judgment,
10 negligence, failure to act, approval, disapproval or failure to approve or disapprove with respect
11 to any matter within their jurisdiction under the terms of this Declaration. Any Owner submitting
12 plans to the Architectural Committee, and any Owner, by acquiring title to any Lot, waives his/her
13 claim for damages or other relief arising under the architectural review process established in
14 this Declaration or by the Board of Directors.

15 **ARTICLE 7: USE RESTRICTIONS**

16 7.1. Single Family Use. Only one private first-class residence for single-family use shall
17 be permitted on any Lot. One attached or detached guest cottage or casita may be permitted on
18 a Lot, subject to architectural approval as set forth in Article 6, and compliance with all
19 Restrictions herein and Rules duly adopted by the Board. Any person or persons residing in the
20 guest facilities must be a family member related to, or be the guest(s) of, the resident of the
21 primary residence on the lot.

22 A person or persons hired or employed by the resident of the primary residence on the Lot for
23 personal on-site medical care-giving services and treatment, shall be considered a guest in
24 compliance with this section.

25 Any exception or variance to the single family use restriction or any other Use Restriction or Rule
26 duly adopted by the Board shall require the approval of the Board upon submission of a prior
27 written request detailing the reason why such an exception or variance should be granted.

28 It is the responsibility of the Lot owner and/or the resident of the primary residence on the Lot
29 to instruct his/her guests concerning all pertinent Association rules and regulations. Any
30 infraction or violations of Association rules and regulations by a guest are the responsibility of
31 the Lot owner.

32 Qualified guests and family members residing in any guest facilities on any Lot shall be entitled
33 to use the Association's common area recreational facilities subject to any rules and policies
34 pertaining to the use and enjoyment of such facilities and the timely payment of assessments
35 owed to the Association.

1 7.2. Animals.

2 7.2.1. No livestock of any kind, including but not limited to horses, cattle, goats,
3 pigs, roosters, or any exotic animals such as peacocks, are permitted on the
4 Properties.

5 7.2.2. Owners may keep a reasonable number of domestic pets in accordance
6 with codes, ordinances, and regulations of Pima County or other competent
7 jurisdiction, provided:

8 A. They are not kept, bred or maintained for any commercial purpose.

9 B. Such pets do not create a nuisance for any other resident within the
10 Properties. The Board of Directors, in its sole discretion, is authorized to
11 determine whether the presence of a particular pet constitutes a nuisance.

12 C. Pets shall be confined within the limits of the Lot or restrained by a
13 leash when the pet is outside the boundaries of any enclosure or fencing
14 on the Lot. No pets are permitted in the pool area or tennis court.

15 D. Any droppings left by the pet are picked up and disposed of in a closed
16 trash receptacle, include droppings on any Lot or Common Area.

17 7.3. Unsightly Objects; Yard Art. No unsightly objects shall be erected, placed or
18 permitted to remain on or around any Lot. The Board of Directors shall have sole discretion to
19 determine whether any object is unsightly.

20 7.4. Business Activities. All Lots shall be used for single-family residential purposes
21 only. The following applies with respect to home-based business activities within the Properties:

22 7.4.1. Criteria for Home Business. No trade or business may be conducted in or
23 from any Lot, except that an Owner or occupant residing in any Lot may conduct
24 business activities within the Lot so long as (A) the existence or operation of the
25 business activity is not apparent or detectable by sight, sound or smell from
26 outside the Lot; (B) the business activity conforms to all zoning requirements and
27 any other governmental requirements for the Properties; (C) the business activity
28 does not involve any person conducting such business who does not reside in the
29 Lot or door-to-door solicitation of residents of the Properties; (D) the existence or
30 operation of the business does not increase that Lot's use of Common Area
31 facilities over the standard for a single family dwelling; (E) the existence or
32 operation of the business does not require more than a reasonable number of
33 customers or delivery trucks to visit the Lot; and (F) the business activity does not
34 constitute a nuisance, or a hazardous or offensive use, or cause the owners to
35 violate any other provisions of this Declaration, or threaten the security or safety
36 of other residents of the Properties, as may be determined in the sole discretion
37 of the Board.

1 7.4.2. Pertinent Definitions. The terms "business" and "trade," as used in this
2 provision, shall be construed to have their ordinary, generally-accepted meanings.

3 7.4.3. Yard Sales or Garage Sales. Yard sales, garage sales and estate sales are
4 allowed no more than twice a year on any Lot, and are restricted to three
5 consecutive days or less per occurrence.

6 7.5. Drilling. No derrick or other structure designated for use in boring for oil or natural
7 gas shall be erected, placed or permitted upon any part of said property, nor shall any oil, natural
8 gas, petroleum, asphalt or hydrocarbon products or substances be produced or extracted
9 therefrom.

10 7.6. Nuisance and Condition of Lots. No Lot shall be used in whole or in part for the
11 storage of any property or item of any character whatsoever or for any activity that causes
12 unreasonable odor or noise, or that will be otherwise unsightly or obnoxious. No owner shall
13 engage in any activity or permit any activity to occur on the Properties which shall result in
14 unusual, loud or obtrusive noises or sounds. No Lot shall be in an unclean or untidy condition.

15 7.7. Rentals. No room or rooms in any Dwelling Unit may be rented or leased;
16 however, any Owner may rent his/her entire Dwelling Unit (or Units) subject to the following
17 requirements and conditions. A person or persons residing in a guest facility for any period of
18 time in return for any monetary payment or other consideration paid to either the owner of the
19 Lot or the resident in the primary residence on the Lot shall not qualify as a guest.

20 7.7.1. Obligations of Lot Owners. Lot Owners shall notify the Association when
21 they wish to rent their Lot for purposes of determining compliance with the
22 leasing restrictions established in this Section. Lot Owners shall be required to
23 provide the name and contact information for any adults occupying the property,
24 the time period of the lease, including the beginning and ending dates of the
25 tenancy, and a description and the license plate numbers of the tenants' vehicles.
26 An Owner shall be responsible for any violation of the Declaration and Rules by
27 his/her lessee or tenant or any other persons residing in the Lot, and their guests
28 or invitees. In the event of any violation, the Owner, upon demand of the
29 Association, shall immediately take all necessary actions to correct any such
30 violations. The Lot Owner shall abate criminal activity as authorized in A.R.S §12-
31 991.

32 7.7.2. Limitation on Number of Rentals. No more than ten percent (10%) of the
33 Lots can be rented or leased at any time after January 31, 2021. Any Lots subject
34 to existing leases in effect as of January 31, 2021 shall not be subject to this leasing
35 restriction until the term of the then existing lease expires without a renewal
36 granted to the same tenant.

37 7.7.3. Time Period. No lease shall be for a period of less than 6 months.

1 7.7.4. Obligations of Tenants. All provisions of the Governing Documents which
2 govern the conduct of Owners and which provide for sanctions against Owners
3 shall also apply to tenants. The Owner shall provide his/her tenant with copies of
4 the Governing Documents. If the Owner fails to do so, the Association may
5 provide copies to the tenant and charge the Owner the cost of doing so.

6 7.7.5. Requirements for Leases. All leases shall be in writing and shall specifically
7 provide:

8 A. The lease is subject in all respects to the provisions of the Declaration
9 and Rules.

10 B. The failure of the tenant to comply with the terms and conditions of
11 the Declaration and Rules constitutes a material default of the lease, and
12 the Owner shall be entitled to reenter and retake possession of the
13 premises pursuant to the provisions of the Arizona Landlord Tenant Act,
14 A.R.S. Section 33-1301 *et seq.*

15 7.7.6. Managing Agents. A Lot Owner may designate in writing a third party to
16 act as the Owner's agent with respect to all Association matters relating to the
17 rental property, except for voting in elections and serving on the Board of
18 Directors. The Lot Owner shall sign the written designation and shall provide a
19 copy of the written designation to the Association. On delivery of the written
20 designation, the Association is authorized to conduct all Association business
21 relating to the Lot Owner's rental property through the designated agent. Any
22 notice given by the Association to a Lot Owner's designated agent on any matter
23 relating to the Lot Owner's rental property constitutes notice to the Lot Owner.

24 7.8. Signs. No sign of any kind shall be on a Lot or Common Area, unless the sign has
25 been approved by the Architectural Committee, except "For Sale," "For Rent," security signs, and
26 signs or other postings which may be required by legal proceedings; or "Open House" signs which
27 are in place not more than two hours before and after the time of the event. The placement of
28 any sign shall not obstruct sidewalks or any other area of public access. If the Owner(s) of any
29 Lot wishes to sell or rent, the Owner or his/her Realtor, with the Owner's permission, may erect
30 one commercially-produced "For Sale" or "For Rent" sign of industry standard size (18" x 24") on
31 the Lot. Said sign shall be removed within one week after close of escrow. The sign shall be the
32 standard type used by real estate professionals without additional advertising or adornment,
33 except one sign rider that does not exceed 6" x 24". Indoor and outdoor display of political signs
34 are allowed no earlier than 71 days prior to an election, and no later than three days after an
35 election day in accordance with A.R.S. §33-1808 and applicable Pima County ordinances, or those
36 of any other competent jurisdiction.

37 7.9. Solar Energy Devices; Wind Generators. Solar energy devices may be installed on
38 any Lot with the prior approval of the Architectural Committee. Solar energy devices should be
39 placed in a manner that makes them the least visible to neighboring Lots while retaining

1 functionality and efficiency. Wind generators and turbines are prohibited. The Architectural
2 Committee may adopt reasonable rules regarding the placement of any alternative energy
3 devices.

4 **7.10. Storage Tanks.** No elevated tanks of any kind shall be erected, placed or permitted
5 on any part of the Properties. No tanks may be erected, placed or buried in the Lots for the
6 storage of any flammable product (such as gas, oil, etc.), except small tanks, such as those
7 containing flammable substances for use in outdoor grills, recreational vehicles or medical
8 purposes which may be exempt from this restriction. Rainwater collection containers may not
9 exceed building height and must be screened or painted to obscure their visibility.

10 **7.11. Trash Storage and Collection.** No trash, garbage, rubbish, landscape trimmings,
11 and/or other noxious, unsafe, or unsightly materials shall be allowed to accumulate on a Lot. All
12 trash and recyclable items shall be stored in covered containers and placed at the street side for
13 a reasonable time period for collection. It is the responsibility of the Dwelling Unit occupant to
14 promptly restore waste containers to a place of concealment or limited view from the street after
15 collection.

16 The Board of Directors may engage a single company for trash removal and recycling
17 services. Each household shall contract with and use only the single company selected. The
18 Board may promulgate rules and regulations governing all matters pertaining to trash removal
19 and recycling services.

20 **7.12. Combination or Subdivision of Lots.** Any ownership or single holding that is made
21 up of two or more adjoining Lots, or the whole of one Lot and part or parts of one or more
22 adjoining Lots, or part of two or more adjoining Lots, may at the option of the Owner, be deemed
23 as constituting a single Lot, except that the Owner's responsibility for assessments and allocated
24 voting rights appurtenant to the Lot or Lots shall not be reduced or expanded by any such
25 combination. Lots may be further subdivided only by amendment to the Declaration in
26 accordance with the requirements of Article 2, Section 2.4.

27 **7.13. Vehicles.** The use of all vehicles, including but not limited to trucks, automobiles,
28 bicycles and motorcycles, shall be in accordance with the Rules, which may prohibit or limit the
29 use of said vehicles, provide parking regulations or adopt other restrictions regulating the same.

30 **7.13.1. Parking.** Except as otherwise provided herein, all Owners and other
31 occupants shall park any and all motorized or non-motorized vehicles in the
32 garage, carport, or on a designated driveway on their Lot, or in a screened section
33 of the Lot, subject to the requirements of this Section. However, Recreational
34 Vehicles and recreation equipment shall be subject to additional rules as further
35 described in this Article. Street parking within the Properties is limited to only
36 guest and invitees of the Owner or occupant. No more than one utility trailer (not
37 longer than 20 feet measured from the hitch mount) and/or one additional
38 Recreational Vehicle may be parked or stored on any Lot outside a garage, at any
39 time. Any additional recreational vehicle or utility trailer requires Board approval.

1 7.13.2. Recreational Vehicles.

2 A. Parking or storing of a Recreational Vehicle is prohibited on all portions
3 of the Properties, except 1) within the confines of either an existing carport
4 or garage, or one constructed for such purpose, subject to architectural
5 approval as set forth herein, or 2) on a Lot, except in the front yard, in such
6 a location with adequate screening so as to minimize visibility from
7 neighboring property and the street. Adequate screening shall mean the
8 use of vegetation, plants, walls, fences, buildings, or structures, which, if
9 not already in place, are installed subject to review and approval in
10 accordance with Article 6. Minimizing visibility shall mean being parked or
11 stored to accomplish the following criteria in order of priority: not be
12 visible from any street, if possible, and within fifteen (15) feet of any
13 property line unless consented to by the affected neighbor, and no more
14 than 20% of the Recreational Vehicle, equipment, trailer visible over,
15 under, or through the adequate screening.

16 B. Notwithstanding the above, temporary parking of Recreational
17 Vehicles in the driveway of a Lot (if space permits) is permitted for the
18 purpose of loading or unloading, or for short-term stays for visiting guests.
19 Such temporary parking is restricted to a period of not more than seven
20 (7) consecutive days at a time, and no more than 14 days in any 30-day
21 period. Guests and other invitees of the Lot Owner may stay in a
22 Recreational Vehicle on a Lot, visible from the street and neighboring
23 property for no more than seven (7) consecutive days, and no more than
24 fourteen (14) days in any 30-day period; except with prior approval by the
25 Board of Directors in writing upon a good faith showing of extraordinary
26 circumstances by the Lot Owner(s). Consecutive days shall mean any
27 portion of a day (24 hour period) that a recreational vehicle or recreation
28 equipment is parked on a Lot shall be considered a full day for purposes of
29 calculating consecutive days.

30 C. Except as provided in this Section, the use and/or occupancy of a
31 vehicle or Recreational Vehicle as living quarters on either a temporary or
32 permanent basis are strictly prohibited on any portion of the Properties.

33 D. For purposes of this Section, the term "Recreational Vehicle" shall
34 include motorhomes, fifth wheels, camper vans, truck campers, camper
35 trailers or tent trailers, boats, jet skis, ATVs and similar vehicle, including
36 their accessory trailers and/or utility trailers (not longer than 20 feet
37 measured from the hitch mount). "Recreational Vehicle" shall not include:
38 1) pick-up trucks with no more than a 3/4 ton capacity with camper shells
39 attached that are no more than seven feet in height as measured from
40 ground level, or 2) mini-motorhomes that are no more than seven feet in
41 height and no more than eighteen feet in length, so long as said pick-up or

1 mini-motorhome is used on a regular and recurring basis for regular
2 transportation and is parked in accordance with the provisions of this
3 Section applicable to vehicles in general.

4 7.13.3. Commercial Vehicles. No commercial, construction or like vehicles larger
5 than ¾ ton with business insignia or utility trailers (longer than 20 feet measured
6 from the hitch mount), including, but not limited to, vehicles or trailers with
7 attached tools, equipment, or storage racks shall be parked or stored on the
8 Properties, except with the permission of the Board of Directors. Smaller vehicles
9 are allowed provided that the business insignia is limited to the driver and
10 passenger doors of the vehicle (no “wraps”). This restriction does not apply to
11 delivery or service provider trucks that are parked on a temporary basis while
12 making a delivery or providing a service to a Lot.

13 7.13.4. Prohibition Against Unsightly or Inoperable Vehicles. No inoperable,
14 unlicensed, junked or wrecked vehicles, or vehicles in any state of disrepair or
15 disassembly shall be parked or stored on any portion of the Properties, except
16 either within a garage or within a carport. This prohibition also applies to
17 frontend-loaders, backhoes, bulldozers/earthmovers, cranes, tow-trucks, and any
18 similar equipment.

19 7.13.5. Enforcement of Parking Restrictions. If any Owner, occupant, guest or
20 lessee violates this Section regarding vehicle parking and storage, the Association
21 may take any action which is necessary to obtain compliance with this Section,
22 including the removal of vehicles in violation of this Section, the cost of which shall
23 become the responsibility of the Owner of the Lot where the vehicle owner resides
24 or is visiting.

25 **ARTICLE 8: EASEMENTS**

26 8.1. Conveyance of Easements and Rights-of-Way. Notwithstanding any other
27 provision in this Declaration, the Board of Directors, at all times, shall have the right to grant and
28 convey to any person or entity, easements or rights-of-way, in, on, over, or under any Common
29 Areas, for the purpose of constructing, erecting, operating or maintaining thereon, therein and
30 thereunder: roads, streets, walks, pathways, driveways, temporary overhead or permanent
31 underground lines, cables, wires, conduits, or other devices for the transmission of electricity for
32 lighting, heating, power, telephone, cable television, security and other purposes, sewers, storm
33 drains, pipes, drainage easements, water systems, water, heating and gas lines or pipes, and any
34 similar public or quasi-public improvements or facilities, and for such other purposes that may
35 be of common benefit to the Members or as may otherwise be deemed proper by the Board of
36 Directors.

37 8.2. Maintenance Easement. Owners whose residence and/or garage are built with
38 the outside surface of the exterior wall adjacent to the Lot line may require maintenance which
39 must be accomplished from the adjoining Lot. Such owners have a perpetual easement on the

1 adjoining Lot to perform maintenance but shall be responsible for any damages to the adjoining
2 Lot incurred during repair or maintenance work on such walls. Each owner is responsible for the
3 cost of repair and maintenance on his/her own wall.

4 8.3. Easement for Encroachments in Original Construction. Each Owner hereby
5 acknowledges and agrees that Dwelling Units, and other Improvements on the Lots, which have
6 been initially constructed on the Properties in the course of original construction, may encroach
7 upon the Common Areas or other Lots in the Properties. Such encroachments caused incidentally
8 are permissible and each Owner, by acceptance of the Deed to his/her Lot, consents thereto.

9 8.4. Conveyance of Common Area. Except for the right of the Association to grant
10 easements or rights-of-way over Common Areas, the Association may not, by act or omission,
11 allow Common Area or any other real or personal property owned by the Association to be
12 abandoned, partitioned, subdivided, encumbered, sold or transferred without the prior approval
13 of two-thirds of the Lot Owners.

14 **ARTICLE 9: ENFORCEMENT**

15 9.1. Right to Enforce. The Association or any Owner has the right to enforce, by any
16 proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or
17 charges now or hereafter imposed by the provisions of this Declaration. This includes
18 enforcement of Rules and Regulations adopted by the Board of Directors to carry out the
19 Association's purposes and duties under this Declaration.

20 9.1.1. Attorney Fees. The prevailing party in any Court action shall be awarded
21 reasonable attorneys' fees and costs. If no Court action is brought, the Association
22 shall be reimbursed by the pertinent Owner(s), all attorneys' fees and costs it
23 incurs in enforcing the Governing Documents.

24 9.1.2. Waiver. No delay or omission on the part of the Association or any Lot
25 Owner in exercising its right to enforcement of this Declaration shall be construed
26 as a waiver of or acquiescence in any breach of any of the Restrictions, or a waiver
27 of any right to enforcement in the future. No right of action shall accrue against
28 the Board of Directors, the Association or any Owner for their neglect or refusal
29 to exercise such right of enforcement.

30 9.2. Enforcement Procedures. At the Board's discretion, a violation of the Governing
31 Documents by an Owner, his guests, tenants or family members, may be referred to the
32 Association's attorney for enforcement action in Superior Court or any other court or agency of
33 appropriate jurisdiction. Alternatively, the Board may levy a monetary penalty or other sanction
34 against an Owner in accordance with the Governing Documents, applicable law and procedures
35 set forth by the Board of Directors.

36 9.3. Notice of Violation If any Owner, his/her guests, tenants or family members are
37 in violation of any of the provisions of the Governing Documents, the Association, after providing

1 notice and an opportunity to cure the violation, has the right to record a "Notice of Violation"
2 with the Pima County Recorder's Office, stating the name of the Owner, the Lot and the nature
3 of the violation, and the Association's intent not to waive any of its rights of enforcement. The
4 Notice shall remain of record until the violation is cured.

5 9.4. No Obligation to Enforce. The Association is not obligated to take any
6 enforcement action if the Board determines, in its sole discretion, that because of considerations
7 pertaining to the Association's finances, possible defenses, the time and expense of litigation or
8 other enforcement action, the likelihood of a result favorable to the Association, or other facts
9 deemed relevant by the Board, enforcement action would not be appropriate or in the best
10 interests of the Association.

11 9.5. Cumulative Rights and Remedies. All rights and remedies of the Association under
12 the Governing Documents or at law or in equity are cumulative, and the exercise of one right or
13 remedy shall not waive the Association's right to exercise another right or remedy.

14 9.6. Violation of Law. Each and every provision of this Declaration, as amended from
15 time to time, is subject to any and all applicable federal, state and local governmental rules and
16 regulations, ordinances and subdivision regulations. Any violation of any federal, state, municipal
17 or local law, ordinance or regulation pertaining to the ownership, occupation or use of any
18 property within the Properties may be, but is not required to be, subject to any and all
19 enforcement procedures set forth in the Governing Documents.

20 IN WITNESS WHEREOF, the undersigned certify that as of the date above, Owners of at
21 least fifty-one percent (51%) of the Lots have approved this Declaration, thereby completely
22 replacing and superseding the Protective Covenants.
23

24 SAMALAYUCA IMPROVEMENT ASSOCIATION.
25 an Arizona non-profit corporation

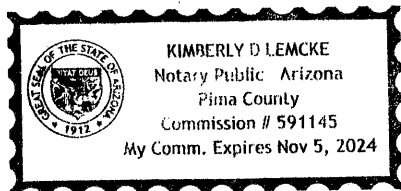
26
27 By: [Signature]
28 Its: President

29 ATTEST:

30
31 By: [Signature]
32 Its: Secretary
33

34 STATE OF ARIZONA)
35) ss
36 County of Pima)
37

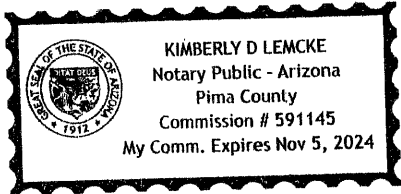
38 The foregoing instrument was subscribed and sworn before me this 6th day of February, 2021,
39 by Scott Doty, President, of the SAMALAYUCA IMPROVEMENT ASSOCIATION, an Arizona non-
40 profit corporation, on behalf of the corporation.



41
42 [Signature]
43 Notary Public

1 STATE OF ARIZONA)
2) ss
3 County of Pima)
4

5 The foregoing instrument was subscribed and acknowledged before me this 6th day of
6 February, 2021, by Mark Koskiniemi, Secretary, of the SAMALAYUCA IMPROVEMENT
7 ASSOCIATION, an Arizona non-profit corporation, on behalf of the corporation.



8 *Kimberly D Lemcke*
9 _____
10 Notary Public

11
12
13
14
15 Additional Signatures:

16
17
18 *Jennifer Esparza* _____ *Sam Esparza* _____
19 Jennifer Esparza Sam Esparza
20 Immediate Past Co-Presidents/Current Co-Vice Presidents
21 Samalayuca Improvement Association
22
23

24 **AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS FOR SAMALAYUCA ESTATES -**
25 **JANUARY 31, 2021 – 28 pages**