

**WHEN RECORDED RETURN TO:**

Saguaro View Management, Inc.  
c/o Colby Management, Inc.  
13622 N. 99<sup>th</sup> Avenue  
Sun City, AZ 85351

2003-0415150 04/03/03 10:54  
2 OF 2

PALUMBOA

**RESTATEMENT OF DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
SAGUARO VIEW MANAGEMENT, INC.**

THIS RESTATEMENT is made of the Declaration of Covenants, Conditions and Restrictions for Saguaro View Management, Inc., effective as of the date of its recording.

**WITNESSETH**

WHEREAS, Saguaro View Management, Inc. is an Arizona non-profit corporation and is the "Association" designated under the Declaration of Covenants, Conditions and Restrictions for Saguaro View Management, Inc. recorded May 9, 1980 in Docket 14408, Pages 1193-1196 in the office of the Maricopa County Recorder, amended by the Amendment to Declaration of Covenants, Conditions and Restrictions recorded July 25, 1980 in Docket 14570, Page 365 [re-recorded August 11, 1980 in Docket 14605, Pages 1365-1366], and amended by the Amendment to Declaration of Covenants, Conditions and Restrictions recorded March 17, 1984 in Recording No. 84-211891, and the Declaration of Covenants, Conditions, Restrictions recorded August 31, 1999 in Recording No. 99-0820806 (the "Third Amendment"), as corrected in the Corrected Third Amendment to Declaration of Covenants, Conditions recorded February 3, 2003 in No. 2003-0126768, (hereafter collectively, "Declaration"); and

WHEREAS, the "Association" recorded an instrument on August 31, 1999 in No. 99-0820806, entitled Declaration of Covenants, Conditions and Restrictions, which instrument contained amendments approved in 1999, but which was prepared in such a way that it appeared to be a restatement rather than an amendment, and has been corrected in the foregoing Corrected Third Amendment.

WHEREAS, the "Association" wishes to record a correct and accurate Restatement of the Declaration, incorporating all prior recorded amendments, for ease of reference and reading, and to avoid confusion because of the purported restatement recorded August 31, 1999.

WHEREAS, the undersigned President and Secretary of the "Association" certify that the following is a true and correct Restatement of the Declaration of Covenants, Conditions and Restrictions, as previously amended by the members of the "Association" and as reflected in the previous recordings through the Third Amendment.

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Know all men by these present:

That the undersigned being the owner of record on the following described real property:

The Southeast quarter of the Northwest quarter; the South half of the Northeast quarter; the Northeast quarter of the Northeast quarter; the South half of the Northwest quarter of the Northeast quarter; and the South half of the Northeast quarter of the Northwest quarter; ALL in Section Thirty (30), Township Five (5) North, Range One (1) West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona<sup>1</sup>, hereinafter referred to as "The Property", and desiring to establish the use and enjoyment of said premises, do hereby declare that the following restrictions shall apply to all said land, and that all conveyances of said real property or any part thereof shall be subject to these covenants, conditions, stipulations and restrictions.

1. From and after the date hereof, the undersigned does hereby reserve and/or assign to SAGUARO VIEW MANAGEMENT, INC., hereinafter referred to as the "Association", the absolute and exclusive control and management of the well site and well located on the West 165<sup>2</sup> feet of the South 100 feet of the North half of the Southwest quarter of the Southwest quarter of the Southeast quarter of Section 25, Township 5 North, Range 2 West of the Gila and Salt River Base and Meridian, and all pumping and storage equipment or replacement thereof located Unofficial Document on, and any and all water conduit lines located thereon, or in any utility easement located in said Section 25, or in Section 30, Township 5 North, Range 1 West, and installed for the purpose of furnishing water to the real property described above or located within that certain Deed of Easement recorded in Docket 14405, page 1057, records of Maricopa County, Arizona; so long as said well and well site shall be used solely for the purpose of furnishing domestic water to "The Property" in Section 30 unless and until the well and well site, equipment and conduit lines shall become a part of a regularly franchised water company licensed by the Utility Division of the Corporation Commission of the State of Arizona<sup>3</sup>.

The "Association" is not subject to the regulatory powers of the Arizona Corporation Commission. The Corporation is a non-profit corporation, the affairs of which will be managed by the contiguous lot owners. Accordingly, the lot owners will be responsible for the operation of the water system in all respects, including the establishment of rates and charges associated with the provision of water service<sup>3</sup>.

2. All owners of portions of "The Property" and all owners of other properties in said Section 30 designated for water use, shall be and become members of the "Association", by virtue of ownership of said property. The number of votes to which each member is entitled shall be determined by the number of two and one-half (2 ½) acre parcels each owns in the ratio of one (1) vote for each gross two and one-half (2 ½) acres owned. (A gross acre includes all area within the boundaries of the parcel described and to the centerline of any adjoining private or public street.) Further, in determining acreage, the

"Association" shall be entitled to treat Section 30 as being 640 acres in area and any fractional division thereof as having a proportionate area. Only one owner, in the event of multiplicity of ownership, may exercise the right to cast the vote attributable to each two and one-half (2 ½) acre parcel. A division of property by an owner shall result in a like division of membership consistent with the number of two and one-half (2 ½) acre parcels so conveyed.

3. The Board of Directors of the "Association" shall, from time to time, establish assessments chargeable to its members to cover the actual costs of operation, maintenance of replacement of the facilities placed under its control and supervision or management for the benefit of its members, including but not limited to the well, the water system, and the roadways presently dedicated over and across "The Property", as well as any insurance deemed necessary by the "Association".

Assessments shall not exceed 40 cents per month per acre owned, commencing July 1, 1980, and continuing until July 1, 1981, unless sooner adjusted, and as thereafter adjusted by a majority of the members of the Board of Directors of the "Association" at a regularly scheduled meeting of said Board of Directors. Each purchaser shall assume the obligations for payment for the entire calendar month in which the purchase occurs, to and including the end of the calendar year of the purchase, together with a transfer fee not to exceed \$10.00, and payment of said assessment and transfer fee shall be made in advance at the then established rate. All assessments shall be payable annually in advance on the 1st day of July of each year. Such assessment shall at no time exceed the sum of four dollars (\$4.00) per acre Unofficial Document unless such maximum limit shall be raised by a vote of fifty-one percent (51%) of the members entitled to vote present at a meeting of the members of the "Association" duly called for such purpose. The undersigned shall be exempt from any assessment prior to July 1, 1981. Any property owner within Section 30, other than owners of "The Property" designated by the Developer/Beneficiary to become a member of the "Association", shall, as a condition of becoming such member, execute and acknowledge an Affidavit and Declaration submitting the property owned by such designee to the terms and provisions of this Declaration in the form required by the Board of Directors of the "Association". Concurrent with the recordation of said Affidavit and Declaration, the undersigned shall convey to such designee a proportionate interest in and to the well site and well, all equipment located thereon, and all conduit under the supervision and management of the "Association", which interest shall pass to subsequent owners proportionately to the interest in the parcel designated subsequently conveyed. No interest in the well site, well, equipment or conduit of any such owner or any owner of "The Property" shall be conveyed except proportionately with the real property to which such interest or portion thereof is attributable. No owner of any such parcel shall retain the ownership in the well site, well, equipment or conduit except proportionately attributable to a parcel retained.

The "Association" shall require the owner of any parcel within Section 30, requesting delivery of domestic water to install at the front line of any such property upon which water conduit has been installed, a water meter and a lockable shutoff valve of the kind

designated by the "Association" between such meter and the distribution line. The "Association" shall have no responsibility to extend such distribution lines beyond those originally installed by the Developer. Any such lines shall be extended at the cost of the person requesting delivery in accordance with requirements of the Health Department of Maricopa County, Arizona. The water rate shall be determined by the "Association" from time to time and billed at regular intervals to the owner of the parcel receiving such water. The "Association" may determine the manner in which water meters may be read and payment for such service.

Water service may be discontinued at the direction of the Board of Directors of the "Association" if charges therefor are not paid within thirty (30) days after a billing therefor has been rendered, upon the giving of fifteen (15) days notice of intent to disconnect and discontinue such service.

Each owner of any portion of "The Property", by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance, is conclusively deemed to covenant and agree to pay to the "Association" such assessments as are hereinbefore provided. Such assessments, together with interest at the highest legal rate of interest permitted to be charged, costs of collection and reasonable attorneys' fees shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the Unofficial Document owner of such property at the time when the assessment fell due. The personal obligation shall not pass to a successor in title unless it is expressly assumed, or unless prior to such transfer of title, a notice of lien for such assessments shall have been recorded in the records of the County Recorder of Maricopa County, Arizona.

Each of said owners expressly vests in the "Association" the right and power to bring all actions against each of said property owners personally for the collection of said assessments and charges as a debt and to enforce said lien by all methods available for the enforcement thereof, including foreclosure by an action brought in the name of the "Association" in a like manner as a mortgage or real property.

The lien provided for in this section shall be in favor of the "Association" for the benefit of all members. The "Association", acting on behalf of the owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event that the "Association" employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms and conditions thereof, the owner, owners and parties against whom the action is brought shall pay all attorneys' fees and costs thereby incurred by the "Association" in the event the "Association" prevails in any such action.

No owner may exempt himself from liability for his contribution toward the common expense by waiver of the use or enjoyment of the facilities or by the abandonment of his land.

The lien hereinabove created shall be superior to all liens, except the lien for taxes and assessments by any authorized governmental body or special district, or the lien of a bona fide first Mortgage or Deed of Trust against any property which includes residential building improvements thereon, or the lien of Commonwealth Title of Arizona, as Seller under Agreements for Sale.

4. No portion of "The Property" shall be divided, redivided, or conveyed in parcels containing less than two and one-half (2 ½) acres, inclusive of abutting easements for roadways, whether public or private, and easements for utilities. Any attempt to so divide, redivide or convey a smaller parcel shall be void. Any additional property in Section 30 designated for membership by the Developer/Beneficiary, which is divided, redivided or conveyed in a parcel less than two and one-half (2 ½) acres shall not be eligible to request water service from the "Association".

5. No building of any kind shall be higher or extend to a height greater than thirty<sup>3</sup> (30) feet. No residential structure shall be constructed containing less than 1,650 square feet, exclusive of carport or garage.<sup>4</sup>

6. No mobile, manufactured, modular Unofficial Document or prefabricated home is allowed with the exception of a mobile home, motor home or camper while the home is under construction. Such mobile home, motor home or camper shall have complete sanitary facilities that are connected to sewage outlets in conformity with all governmental regulations. The property owner must have a valid building permit from the governmental agency having jurisdiction prior to residing on the property. After the valid building permit is issued for construction of a home, the duration of residing in the mobile home, motor home or camper on the property shall not exceed one year from the issuance of the permit including all extensions of the building permit. If construction is not completed within one year of the issuance of the permit, the property owner cannot continue to reside on the property in the mobile home, motor home or camper. Travel trailers, motor homes and campers may be stored on the owner's property, but not lived in after the construction is completed.<sup>4</sup>

7. All homes and mobile homes shall be maintained in such condition so as not to depreciate property values in the area thereof.

8. No commercial operation of any kind, as such term is defined by the planning and zoning regulations of Maricopa County, Arizona, shall be conducted on any portion of the subject property.

9. No building shall be moved upon any portion of the subject property, and all construction of residential structures shall be erected with the use of new materials.

10. No billboards or advertising signs of any kind or nature shall be permitted to be placed or remain on any parcel. "For Sale" signs advertising a parcel for sale shall be permitted.

11. Any exterior lighting erected on any lot shall be shaded so as not to create a nuisance to the occupants of adjoining property owners.

12. Livestock and poultry, except for pigs and swine, may be kept and maintained on any portion of the subject property, provided (i) that no animals in excess of the number allowed by any regulatory agency of Maricopa County, Arizona, shall be permitted; (ii) the owner thereof shall keep and maintain adequate fencing to prevent straying or intrusion upon adjacent property; (iii) all corral and grazing areas shall be maintained in a neat, sanitary manner so as not to become offensive to the neighborhood, and all waste material shall be appropriately buried in the ground or hauled to an appropriate sanitary land fill area.

13. No disabled motor vehicle shall be stored except in an enclosed structure. No refuse or junk or other debris shall be dumped or permitted to remain on any portion of the subject property. Parcel owners shall be responsible for the proper and sanitary disposal of their own refuse and garbage by hauling to an appropriate and approved sanitary landfill.

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14. Notwithstanding the foregoing at such time as the Developer/Beneficiary shall determine that no additional property in Section 30 shall be designated for water use, the undersigned Trustee shall convey to the then owners of record of "The Property" and owners of record of other properties then previously designated for water use the remaining undivided interest held by Trustee in the well site, well equipment and conduit. Each such owner shall thereby acquire and then own an undivided interest in the ratio that the number of acres then owned by such owner bears to the total number of undivided interests having been previously conveyed by the Trustee. Any such conveyance shall be subject to the same liens, encumbrances or agreements to which the property owned is subject.

15. These restrictions shall remain operative and effective until January 1, 2000, and shall automatically renew for successive periods of 20 years thereafter unless altered or amended by a vote of a 2/3rds majority of all members of the "Association" at any time.

16. All pets must be confined to the pet owner's property. Dogs must be restrained so as to not disturb the peace of their neighbors. Fines may be issued by the "Association" to curtail this unwanted activity.<sup>5</sup>

17. All-terrain vehicles, dirt bikes, and similar recreational vehicles must obey a 25 mile per hour speed limit when traveling on the "Association"'s roads. No cruising is allowed. These vehicles may not travel on the "Association"'s roads after sunset. A fine will be



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<sup>1</sup> This property description defines the 200 acres of the original "Association" established by the Developer/Beneficiary May 9, 1980. Since then, the "Association" has grown by taking in non-member properties in Section 30 via procedures described in Paragraph 3 below.

<sup>2</sup> Correction made in 1<sup>st</sup> Amendment to CC&Rs (Docket 14570: July 25, 1980 [Docket 14605: August 11, 1980] ).

<sup>3</sup> Modification made in 2<sup>nd</sup> Amendment to CC&Rs (Document #84-211891: May 17, 1984).

<sup>4</sup> Paragraph replaced in 3<sup>rd</sup> Amendment to CC&Rs (Document #99-0820806 & #2003-0126768).

<sup>5</sup> Amendment added in 3<sup>rd</sup> Amendment to CC&Rs (Document #99-0820806 & # 2003-0126768).