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**SECOND AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
STRAWBERRY HILL VILLAGE AND RACQUET CLUB,
A PLANNED COMMUNITY**

WHEREAS, Michaelson and Company, an Arizona corporation, (hereinafter referred to as "Declarant" or "Developer"), recorded a Declaration of Covenants, Conditions and Restrictions for Strawberry Hill Village and Racquet Club, A Planned Area Development, on September 26, 1973, in Docket 10325, Page 1528, official records of Maricopa County, Arizona Recorder (the "Original Declaration") and the Association amended and restated the Original Declaration as set forth in the Declaration of Covenants, Conditions and Restrictions for Strawberry Hill Village and Racquet Club, A Planned Area Development, on February 8, 2001 at Recording No. 2001-0097860, official records of Maricopa County, Arizona Recorder (the "First Amended and Restated Declaration"), which governs the real property described below ("the Property");

Lots one (1) through fourteen (14), both inclusive and Tracts, A, B, C, D, E, F, G H and I, all as shown on the plat for Strawberry Hill Village and Racquet Club, recorded in Book 165 of Maps, page 48, records of Maricopa County, Arizona Recorder.

WHEREAS, the Association, by and through its members, wishes to amend and restate the First Amended and Restated Declaration in its entirety as set forth herein;

NOW, THEREFORE, the Association hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property now and hereafter subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the described property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

Section 1: "Association" shall mean Strawberry Hill Village and Racquet Club Improvement Association, Inc., an Arizona nonprofit corporation, its successors and assigns.

Section 2: "Common Areas" shall mean all property (including particularly but not necessarily limited to Tracts A, B, C, D, E, F, G, H and I and any recreational or community facilities, improvements, swimming pools, landscaping, streets, roadways and cul-de-sacs, etc., located thereon) owned by the association for the common use and enjoyment of the members of the association.

Section 3: "Lot" shall mean the separately designated lots numbered one (1) through fourteen (14), inclusive.

Section 4: "Member" shall mean every person or entity who holds a membership in the Association through property ownership. A member may delegate his/her membership rights to another permanent resident of his/her unit for purposes of voting and participation in Association business. This delegation must be made by written notification to the Board which will be in effect until rescinded in writing. In instances where there is more than one (1) owner of a unit, only one (1) owner or his/her designee may exercise the voting rights of the unit.

Section 5: "Owner" shall mean the record owner, whether one or more persons or entities, of equitable title (or legal title if equitable title has merged) in any lot which is part of the properties. An owner does not include a person or entity who holds an interest in a lot merely as security for the performance of an obligation.

Section 6: "Unit" shall mean and refer to a separately designated lot at such time as a residential living Unit has been constructed thereon, without limiting or restricting the definition of lot referred to in Section 4 above which also may include any improvements erected on a lot.

Section 7: "Properties" or "Premises" or "Property" or "Development" shall mean that certain real property as described above.

ARTICLE II: USE RESTRICTIONS

Section 1: Residential Use. All of the lots in the Development shall be known and described as, and limited in use, to residential purposes. Except as may otherwise be permitted by this Declaration, no improvements or construction whatever other than private dwelling, patios, walls, and customary outbuildings, garage, carport and swimming pool may be erected or maintained on any of said lots.

Section 2: Construction. All Units and structures on said lots shall be of new construction (and then only as may be acceptable to the Board of Directors of the Association, pursuant to Article III hereof), and no buildings or structures shall be moved from any other location onto any of said lots. No Unit shall be erected, permitted or maintained on any lot having a ground floor area of less than 1,100 square feet, exclusive of open roofed areas, pergolas or attached garage or carport.

Section 3: Temporary Structures. No structures of a temporary character shall be permitted on the Premises, and no trailers (except those permitted to be parked pursuant to Article II, Section 8 below), tents, shacks or barns shall be permitted on the Premises, either temporarily or permanently.

Section 4: Business or Offensive Activities. No noxious or offensive activity may be carried on or permitted on any part of the Properties, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood; nor shall any part of the Premises be used for business, professional, commercial or non-residential purposes. No passenger vehicles, trucks, boats, cycles and campers shall be repaired. This section does not apply to the activities of the Association in furtherance of its powers and purposes as set forth in this Declaration.

Notwithstanding the foregoing, an Owner or other resident of a Lot may conduct a business activity upon 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 the door-to-door solicitation of Owners or other residents in the Premises; and (iv) the business activity is consistent with the residential character of the Premises and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other residents in 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 Areas regarding the 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: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity.

Section 5: Signs. No signs shall be permitted on any of the Common Areas without the prior written consent of the Board. No signs of any type or character shall be erected or permitted on any Lot or Residential Unit without the prior approval of the Board of Directors, except:

- (a) a name and address sign, which may be subject to the Association Rules;
- (b) commercially-produced "For Sale", "For Lease" and temporary "Open House" signs, each no larger than eighteen by twenty-four inches (18" x 24") and sign riders no larger than six by twenty-four inches (6" x 24") erected in connection with the marketing of any Lot;
- (c) political signs as permitted by the City of Phoenix and Maricopa County may be placed on the Lot up to seventy-one (71) days before an election and up to three (3) days after an election; and
- (d) signs required by legal proceedings and signs required by law to be allowed on the Lot.

Section 6: Outside Lighting. No spotlights, floodlights or similar type lighting shall be placed or utilized upon any lot which in any way will allow light to be reflected on any other lot, or improvements thereon, or upon the Common Areas or any part thereof.

Section 7: Animals, Pets. Only commonly accepted household pets may be kept on a lot, provided that such commonly accepted household pets are not kept, bred or maintained for any commercial purposes. Except as stated above, no other animals or birds of any kind shall be raised, bred or kept on the premises or any part thereof without the written consent of the Directors of the Association first obtained.

Section 8: Trucks; Boats; Cycles; Campers. Except for trucks or vans belonging to persons doing work on the Premises during daylight hours (or at other times during emergencies) and

except for vehicles permitted by law to park on streets and driveways, only passenger vehicles shall be parked in the streets, driveways or open carports. Cycles, boats and campers shall not be parked in open carports for more than 48 hours in a 30 day period unless written approval is obtained from the Board of Directors of the Association with respect to some other place and/or manner of keeping or parking such a vehicle or equipment. If the Board of Directors of the Association determines that a vehicle (including but not limited to a motorbike or motorcycle) is creating loud or annoying noises by virtue of its operation within the properties, such determination shall be conclusive evidence that the operation of such vehicle is a nuisance and said operation, upon notice by the Board to the owner or operator thereof, shall be prohibited within the properties. Subject to the above restrictions, all vehicles must be operated in the development by licensed operators.

Section 9: Window Coverings. No aluminum foil or similar reflective coverings shall be allowed to be placed on the outside or inside of any windows or mirrors which can be seen from the outside of the Development.

Section 10: Screening Areas: Fences. All screening areas and fences, hedges or walls shall be maintained upon the Premises in accordance with their original construction or installation, except as otherwise approved by the Board of Directors of the Association.

Section 11: Trash: Unsightly Items. All clotheslines, garbage cans, equipment, service areas, woodpiles, storage piles and storage areas shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring property and streets. All rubbish, trash or garbage shall be removed from the Premises and shall not be burned on or allowed to accumulate on the Premises. No incinerators, except those approved in writing by the Board of Directors of the Association, shall be permitted on the Premises.

Section 12: Underground Utilities. All electric, gas, power, telephone, water and other service and utility lines, pipes and/or other structures and media for transmission thereof shall be placed and maintained underground, except above ground service pedestals and switch cabinets, and except to the extent (if any), such under-ground placement may be prohibited by law, and except for such above-ground structures and/or media for transmission as may be originally constructed by Developer or as may be otherwise approved in writing by the Board of Directors of the Association.

Section 13: Landscaping. Each lot shall be landscaped and maintained in accordance with the rules and regulations prescribed from time to time by the Board of Directors of the Association, provided to ensure consistency of the landscaping. However, no rock or granite shall be used and no substantial changes in the elevation of the land shall be made on the Premises without the written consent of the Board after consideration of the request by the Architectural Control Committee.

(a) The Association will maintain responsibility for routine upkeep and maintenance of both the common areas and other areas which are visible from the street, stopping at the front entrance of each unit. This will include periodic clean-up, planting and trimming. No homeowner may change the landscaping of common areas or of areas visible from the street without the

written consent of the Board after consideration of the request by the Architectural Control Committee.

(b) Any homeowner request for landscaping and tree trimming other than routine or tree removal shall make the request to the Board in writing. The request will be considered based on the impact of the request on the integrity of the Association's landscaping standards and availability of funds.

Section 14: Antennas. No radio, television or other antennas or devices of any kind or nature, or device for the reception or transmission of television, radio, microwave or other similar signals, shall be placed or maintained upon any Lot except in compliance with the Association Rules and except those devices covered by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, will be permitted. Any such device 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 Neighboring Property. The devices governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule) as of the date of the recording of this Declaration are as follows: (i) Direct Broadcast Satellite ("DBS") 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 ("MDS") 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 ("TVBS"); 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 Rule, this Section 14 shall encompass those antennas as well.

Section 15: Renting. No portion of the Premises but for an entire lot, together with the improvements thereon, may be rented, and the member must provide written notification to the of the term of the rental contract as well as the number, names and telephone numbers of renters.

Section 16: Subdividing Easements

(a) None of the lots shall be resubdivided into smaller lots or conveyed or encumbered in less than the full original dimensions as shown on the plat of this Development. However, this restriction shall not prevent conveyances which combine in common ownership lots or parts of lots in such a manner that the parcel of land thereby resulting has a street frontage and area the same as or greater than the street frontage and area of the lots shown on said plat. Such parcel thereafter shall be considered as one lot, except and provided, however, subject to the provisions of these Restrictions, an owner of two or more full lots as shown on the plat marked Exhibit "A" shall be entitled to one vote and shall be subject to one assessment for each full lot owned as shown on the original plat.

(b) Easements have been created and dedicated as shown on the Plat annexed hereto marked Exhibit "A," and in addition thereto an easement is hereby created and granted for private and/or city refuse collection over the remaining portion of Tract A as shown on the Plat

wherein the existing easement for city refuse collection is not shown and, further, an easement is hereby created and granted over all of Tract A for emergency vehicle use if and when required.

(c) Nothing contained in this Section 16 shall prevent the dedication or conveyance of, or granting or use of easements over, across and under portions of lots for public or quasi-public uses or purposes which benefit the lot Owners in general. No building or other structures shall be placed on any easements nor interference made with the free use thereof for the purposes intended.

Section 17: Walls. The walls of any buildings or improvements and Fences constructed on any lot shall not exceed the height of the original construction unless approved in writing by the Board of Directors of the Association. Setback lines shall be maintained in accordance with the original construction on each lot unless otherwise permitted by written approval of the Board of Directors of the Association.

Section 18: Flags and Flagpoles. An Owner may install a flagpole on the Lot, no higher than the rooftop of the Residential Unit, after first obtaining the written approval of the Association in accordance with Article III herein. The following flags may be flown on the Lot in accordance with the Federal Flag Code (P.L. 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, and an Arizona Indian Nations; 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.

ARTICLE III: ARCHITECTURAL CONTROL

Section I: Submission of Plans for Original Construction. Except as otherwise provided herein, no building, fence, wall, antenna, tower or structure of any kind or character shall be commenced, erected, placed or maintained on any lot unless and until plans and specifications quoting the location, kind, material, approximate cost, area, heights, color, shape and design thereof first shall have been submitted to and approved by the Board of Directors of the Association, and a copy thereof as finally approved is lodged permanently with the Board. Failure of the Board to reject in writing said plans and specifications within thirty (30) days from the date same were submitted shall constitute approval of said plans and specifications, provided the building or other structure to be built or places on the lot shall be governed by all of the restrictions in this Declaration and that each such building or other structure shall be in harmony with existing buildings and structures within the Properties. The Board shall have the right to deny approval of any plans or specifications which, in its opinion, are not suitable or desirable for aesthetic or any other reasons. In this regard the Board shall have the right to take into consideration all matters mentioned above (i.e. location, kind, material, etc.), as well as the effect any proposed building or structure may have upon the site where it is proposed to be constructed or placed, and the suitability of the same with respect to the surrounding area and the effect thereof (including but not limited to harmony of external design and location) upon adjacent lots and Properties as a whole.

Section 2: Replacements; Additions; Alterations. All subsequent exterior additions, changes, alterations or redecorating (including but not limited to painting of exterior surfaces) or any building, fence, wall, landscaping, antenna, tower or structure of any kind or character, or general landscaping of a lot, shall be subject to the prior approval of the Board of Directors of the Association under the same conditions set forth in Section 1 above.

ARTICLE IV: EXTERIOR MAINTENANCE

Section 1: The Association shall maintain the Common Areas. The Association shall have the right at any time to determine if the Association shall undertake the care and maintenance of all or any portion of the landscaping of the lots up to the exterior building lines and patio enclosures, and if the Association shall undertake the painting of the exterior of the buildings in the Development. All maintenance and repair of the individual Units and lots shall be the sole obligation and expense of the individual Unit Owners, except to the extent of the exterior maintenance and repair that is provided by the Association. Anything to the contrary notwithstanding contained herein or otherwise, the Association shall have the right at any and all times to promulgate reasonable rules and regulations concerning the landscaping, color scheme and other related matters affecting the outside appearance of the Development, and the individual Unit owners shall be bound thereby. Any cooperative action necessary or appropriate for the proper maintenance and upkeep of the Common Areas and all exteriors and roofs of the Units, including but not limited to recreation and parking areas and walks, shall be taken by the owners at the request of the Board of Directors or by its duly delegated representative. The powers, rights and duties of the Association and Board of Directors shall be as contained in this Declaration, and as may be adopted in its Articles of Incorporation and By-Laws not inconsistent herewith.

Section 2: In the event that the need for any maintenance of repairs to the Common Areas (or otherwise which the Association has undertaken or is responsible for) is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE V: OTHER MAINTENANCE

Section 1: Each Owner shall be responsible for the upkeep and maintenance of the exterior of his Unit and for the upkeep and maintenance of the individual Patios, all other areas, features or parts of his Unit and lot (exterior or elsewhere) not otherwise maintained by the Association. All fixtures and equipment installed within a Unit, as well as within a lot, shall be maintained and kept in repair by the Owner thereof except that the Association shall have the right at any time to maintain and repair utility lines, pipe, wires, conduits, or similar systems or facilities up to the point where they enter the exterior walls of a Unit. Termite control shall be the responsibility of the Owner. An Owner shall do no act nor any work that will impair the structural soundness or integrity of the Development or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Units or their owners.

ARTICLE VI: STRAWBERRY HILL VILLAGE AND RACQUET CLUB

IMPROVEMENT ASSOCIATION, INC. AND MEMBERSHIP IN THE ASSOCIATION

Section 1: Purpose. Strawberry Hill and Racquet Club Improvement Association, Inc., shall be a nonprofit-corporation organized under and by virtue of the laws of the State of Arizona for the general welfare and benefit of the Property Owners in the Development. The Association, through its members and Board of Directors, shall take the appropriate action to manage and maintain the Common Areas and to perform related activities, all in accordance with this Declaration and with the Articles of Incorporation and By-Laws.

Section 2: Membership. Membership in the Association shall be limited to the owners of lots as herein above defined, and such membership shall be subject to all the provisions of this Declaration and the Association's Articles of Incorporation and By-Laws, as the same may be amended from time to time. An Owner of a lot shall automatically, upon becoming the Owner of a lot, be a member of the Association. An Owner shall remain a member of the Association until such times as his ownership for any reason ceases, at which time his membership in the Association automatically shall cease. Ownership of a lot shall be the sole qualification and criterion for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. A membership in the Association shall not be transferred, pledged or alienated in any way except on 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 make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the owner of any lot should fail or refuse to transfer the membership registered in his name to the purchaser of such lot, the Association shall have the right to record the transfer upon the books of the Association and issue a new membership to the purchaser, and thereupon the old membership outstanding in the name of the seller shall be null and void as though the same had been surrendered. The record owner of a lot shall be entitled to one membership in the Association for himself and his family residing in a Unit; provided however, in the event any such Unit is owned by two or more persons the membership as to each Unit shall be joint and a single membership for such Unit shall be issued in the names of all owners, and they shall designate to the Association in writing, at the time of issuance, one of their Members who shall hold the membership and shall have the power to vote said membership and in the absence of such designation, and until such designation is made, the Board of Directors shall make such designation. At the discretion of the Board of Directors of the Association, no certificates of membership need be issued, and if certificates are not issued, membership shall be evidenced by an official list of Members kept by the Secretary of the Association.

Section 3: Voting Rights. Each membership representing ownership of one of the lots in the Development (meaning lots one [1] through Fourteen [14], inclusive) shall be entitled to one vote. All rights and authority granted to the Association, including but not limited to the right to make assessments as set forth in Article X below, shall be assumed, held and administered by the Association, its Members, Directors and officers in accordance with its Articles of Incorporation, By-Laws and this Declaration.

Section 4: Suspension of Voting Rights. In the event any Owner shall be in arrears in the payment of Association Dues or Special Assessments which have been made for more than two (2) months of the preceding calendar quarter, said owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current. In the event any owner shall be in default in the performance of any of the terms of this Declaration for a period of fifteen (15) days, said owner's right to vote as a Member of the Association shall be suspended only upon a vote of a quorum of the Members of the Association as set forth in Article X, Section 6, until all defaults cured.

Section 5: Indemnification. The Association shall indemnify every officer, director, and agent of the Association against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon any officer or director of the Association in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or an agent of the Association, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors, and agents shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except indirectly to the extent that such officers or directors may also be Owners of the Association and therefore subject to Assessment to fund a liability of the Association), and the Association shall indemnify and forever hold each such officer, director, and agent free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, agent or former officer, director, or agent of the Association, may be entitled. 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 own choosing, to defend him or her in the action.

Section 6: Limitation of Director Liability. In accordance with the provisions of the Nonprofit Corporation Act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time), 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 said Director was acting in good faith and within the scope of his official capacity (which is any decision, act, or event undertaken by the Association in furtherance of the purpose or 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 Nonprofit Corporation Act.

ARTICLE VII: PROPERTY RIGHTS

Section 1: Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every assessed lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of members;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(c) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas and facilities, and in aid thereof to mortgage said Property, and the rights of such mortgagee in said Properties shall be subordinate to the rights of the Owners hereunder;

(d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid, or for any infraction by an Owner of the conditions of this Declaration and the Articles of Incorporation, the By-Laws, and published rules and regulations of the Association.

(e) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes, and subject to such conditions, as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast ten (10) of the votes of the membership has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance.

Section 2: Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

ARTICLE VIII: PARTY WALLS

Section 1. The rights and duties of the Owners of Units within this Development with respect to party walls shall be governed by the following:

(a) Each wall, including patio walls which is constructed as part of the original construction of any structure, any part of which is placed on the dividing line between separate Units, shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

(b) In the event any such party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such owners shall forthwith proceed to rebuild or repair the same to as good condition as formerly without cost to the adjoining owner.

(c) In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining owners, his agents, tenants, licensees, guests or family

(including ordinary wear and tear and deterioration from lapse of time), then in such event both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense.

(d) Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) The right of any owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

(f) In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to or rebuild his Unit in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

(g) In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such owners addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three (3) arbitrators, one chosen by each of the Owners and the third by the two so chosen, or if the two arbitrators cannot agree as to the selection of the third arbitrator within five (5) days, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

(h) These covenants shall be binding upon the heirs and assigns of any owners, but no person shall be liable for any act or omission respecting any party wall except such as took place while an Owner.

ARTICLE IX: ADDITIONAL EASEMENTS

Section 1: There is hereby created a blanket easement upon, across, over and under the above described properties for ingress, egress, installation, replacing, repairing and maintaining all utilities including, but not limited to, water, sewers, gas, telephones and electricity. By of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said Properties and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Units. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Properties except as initially programmed and approved by the major builder of said Properties or thereafter approved by the Developer or the Association's

Board of Directors. This easement shall in no way affect any other recorded easements on said Property.

Section 2: Each Unit and the Common Areas shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Developer. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event any Unit or any structure is, partially or totally destroyed and then rebuilt, the Owners of the Units agree that minor encroachments of parts of the adjacent Units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

ARTICLE X: COVENANT FOR ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments. The Owner of each lot, by acceptance of a deed or other instrument therefor, whether or not it should be so expressed in any such deed or other conveyance is deemed to covenant and agrees to pay to the Association: (a) annual or periodic assessments or charges, (b) special assessments for capital improvements, and (c) individual assessments as provided for under Section 8 of this Article X. The annual or periodic, special and individual assessments, together with such interest thereon, and costs of collection thereof (including reasonable attorney's fees) as hereinafter provided, shall be a charge on the land and shall be a continuing lien (hereinafter sometimes called an "assessment lien") upon the lot against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees, shall be the personal obligation of the person who is the Owner of such lot at the time when the assessment became due, but such personal obligation or liability of the owner shall not be deemed to limit or discharge the charge on the land and continuing lien upon the lot against which such assessment is made. No Owner may exempt himself from liability for the assessment which becomes due while he is the Owner by failure or waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his lot. or otherwise.

Section 2: Purpose of Assessments. The assessments levied by the Association shall be used for the purpose of promoting the general benefit, recreation, health, safety and welfare of the Owners of the Properties. Such purposes shall include, but shall not be limited to, and the Association's rights and powers shall include (in addition to the rights and powers set forth in the Declaration and in its Articles of Incorporation and By-Laws) the provision for, and improvement, construction, repair, maintenance, care, upkeep and management of, the Common Areas and the improvements and facilities thereon; and further, shall include the payment of all real estate taxes which may be assessed against and levied upon the Common Areas and any improvements located or constructed thereon, and all premiums for hazard and public liability insurance, together with all other costs and expenses related to the management and maintenance of the Common Areas. Nothing contained herein shall limit the Association's rights and powers granted in this Article X or elsewhere granted in this Declaration and the Articles of Incorporation and By-Laws of the Association.

Section 3: Annual Assessments or Charges.

(a) The Board of Directors of the Association, on behalf of the Association shall determine and establish a budget and make assessments upon the Owners of lots on the basis of costs and expenses incurred or estimated to be incurred by the Association. The Owner of each lot for said Owner and for said owner's heirs, executors, administrators, successors and assigns, covenants and agrees that each lot shall be subject to an assessment in an amount to be determined, which shall be said lot's pro rata share of the following:

(1) The actual cost to the Association of all taxes, water, utilities, insurance, repairs, construction, replacement and maintenance of the Common Areas, and improvements and facilities located thereon and shall include but not be limited to charges in connection with the sprinkler systems, street paving, pathways and other services benefiting the Owners, and all other charges necessary to carry out the purposes of the Association as set forth in this Declaration, the Articles of Incorporation and By-Laws of the Association, and its rules and regulations; and

(2) Such sums as the Board of Directors of the Association shall determine to be fair and prudent for the establishment and maintenance of a reserve for repair, maintenance, taxes, insurance, management and administrative costs and other charges as specified herein.

(b) Each lot's pro rata share shall be that portion of the total cost determined pursuant to subparagraphs (1) and (2) above, which is in the ratio that one bears to the total number of lots within the Properties. The amount to be prorated pursuant to subparagraphs (1) and (2) above shall be established annually by the Board of Directors. The Association shall establish a fiscal year and shall collect each lot's share of the annual assessment at regular intervals as stated in Section 5 below.

(c) Notwithstanding the foregoing, the Board shall not impose an annual assessment in any annual assessment period that is more than twenty percent (20%) greater than the immediately preceding fiscal year's annual assessment without the approval of the majority of the Members, or as otherwise provided by Arizona law.

Section 4: Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of seventy-five percent (75%) of the votes of the Members who are voting at any meeting duly called for this purpose.

Section 5: Uniform Mode of Assessments. Both annual and special assessment shall be fixed at a uniform rate for all lots and may be collected once monthly or other periodic basis as determined by the Board of Directors.

Section 6. Quorum for Any Action Authorized under Section 4. Written notice or any meeting called for the purpose of taking any action authorized under Section 4 shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first meeting called, as provided in Section 4 hereof, the presence, in person and by absentee ballot, of Members entitled to cast fifty-one percent (51%) of all the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the same notice requirement, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7: Due Date of Annual Assessment. The Board of Directors shall fix the amount of the annual assessment 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. The due dates shall be established by the Board of Directors.

Section 8: Individual Assessment for Restoration of Owner's Lot.

(a) In the event the Owner of a lot fails to maintain his lot (including the exterior of the improvements thereon and the yard and landscaping) in a first-class, neat and clean condition, and generally in a manner satisfactory to the Board of Directors of the Association, the Association through its agents, employees and/or independent contractors shall have the right, and each owner expressly grants and assigns the Association the right (subject to prior notice as herein below set forth), to enter upon such owner's lot and repair, maintain, rehabilitate and restore the yard, patio and exterior of any and all buildings and/or other structures located thereon to the condition deemed satisfactory to the Board of Directors. The cost thereof shall be charged against and collected from the Owner of the lot, the amount thereof to be paid by the owner within thirty (30) days from the date of the invoice sent to the owner, and said amount further shall be secured by, and subject to all provisions regarding the assessment lien as provided in this Article.

(b) Prior to exercising the aforesaid right of restoration, the Association shall give written notice to the Owner of said lot specifying the necessary repairs, maintenance, rehabilitation or restoration to be undertaken, and granting the Owner thirty (30) days to accomplish the same. If, at the end of said period, the work required to be performed has not been completed (or has been completed in a manner unsatisfactory to the Board of Directors) then the Association shall have the right, as above set forth, to make such repairs, maintenance, rehabilitation or restoration.

(c) Nothing herein contained shall be construed as granting, to the Association any right to enter into or inside of any building or buildings located on a lot without the consent of the Owner thereof.

Section 9: Exempt Property. The following Property, subject to this Declaration, shall be exempt from the assessments created herein: (a) all Properties dedicated to and accepted by a local public authority; and (b) all Properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Arizona. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 10: Certificate of Payment of Assessments. The Association shall, upon written request, furnish to a person acquiring an interest in any Lot and to a lienholder, escrow agent, Owner or person designated by an Owner, a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate will be provided within the time period required by law. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 11: Effect of Nonpayment of Assessments and Remedies of the Association. Each Owner, for himself, his heirs, executors, administrators, successors and assigns, covenants and agrees that with respect to assessments so determined during the period that he is an Owner, he will remit those assessments directly to the management corporation or to such other party or parties as directed by the Association's Board of Directors; and further agrees that any assessments which are not paid when due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the owner shall be obligated for the assessment and interest thereon, together with all costs incurred by the Association in collecting the same, including reasonable attorney's fees. The assessment shall immediately become a lien upon said Owner's lot from the date the assessment is made and/or levied, and shall continue to be such lien until fully paid, which lien shall secure the amount of the assessment, together with interest, costs and attorney's fees as herein above stated. The Association is hereby authorized to record a notice and claim of lien in the office of the County Recorder for Maricopa County, Arizona. In the event the owner of any lot fails to pay an assessment due, the Association, by and through its Board of Directors, may enforce the payment of the assessment by foreclosure of the lien or by taking any or all of the following actions concurrently or separately (and by exercising any of the remedies hereinafter set forth the Association does not prejudice or waive its right to exercise any other remedies):

(a) Bring an action at law against the owner personally obligated to pay the assessment.

(b) Foreclose the assessment lien against the lot in accordance with the then prevailing Arizona law relating to the foreclosure of realty mortgages (including the right to recover any deficiency), and the lot may be redeemed after foreclosure sale as provided by law. 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.

Anything herein above to the contrary notwithstanding, the remedies above set forth for the Association are not exclusive and the Association may take any and all other remedies available to it at law or in equity.

Section 12: Subordination of the Lien to Mortgages. The assessment lien shall be junior and subordinate to the lien of any first realty mortgage against the lot, and foreclosure of the assessment lien shall not affect or impair the lien of any such first realty mortgage. Any first mortgage foreclosure purchaser, or grantee taking by deed in lieu of foreclosure, shall take the lot free of the assessment lien for all charges that have accrued up to the date of issuance of a

sheriff's deed or deed given in lieu of foreclosure, but shall take subject to the assessment lien for all assessments and charges accruing subsequent to the issuance of a sheriff's deed or deed given in lieu of foreclosure.

Section 13: Fines. In the event that any Homeowner does not comply with any provisions of the By-Laws or CC&Rs, the Board will make verbal request to correct the violation. If the violations are not corrected within seven (7) days or if the violation is recurring, the Board will provide written notice to the Homeowner. If the Homeowner does not correct the violation within fourteen (14) days of the written notice or if the same violation occurs again, the Board may assess a penalty not to exceed \$100 per violation. In instances where the Association incurs expenses to correct the violation after written notice has been provided and not corrected, the Association cost the correcting the violation will be paid by the Homeowner. Except as otherwise provided by the By-Laws or CC&Rs, any fine or series of fines in excess of \$100 per six (6) month period will be approved by the Association in a general or special meeting.

ARTICLE XI: GENERAL PROVISIONS

Section 1: This Declaration, as amended from time to time, shall run with, bind and burden the Property, and shall be binding upon each Owner and his heirs, executors, administrators, successors and assigns and all other persons claiming an interest in and to the Property unless terminated as provided in Section 3 hereof.

Section 2: All instruments of conveyances or transfer of any interest of all or any part of the Properties may contain the restrictions herein set forth by reference to this Declaration. However, the restrictions herein shall be binding upon all persons affected by the terms of this Declaration, regardless of whether any reference is made to this instrument in the deed or other instrument of conveyance.

Section 3: This Declaration may be amended at any time by recording in the office of the County Recorder of Maricopa County, Arizona, an instrument in writing reciting said amendments certifying that Owners of ten (10) of the lots within the Property have agreed to such amendment(s). These Restrictions may be terminated by recording in the office of the County Recorder of Maricopa County, Arizona, an instrument in writing signed and acknowledged by the Owners of ninety-five percent (95%) of the lots, and provided a public authority has agreed to accept a dedication of the Common Areas or otherwise has agreed to maintain (or cause to be maintained) the Common Areas.

Section 4: These Restrictions may be enforced by the Association through its Board of Directors and any Owner of any lot within the Property. Violation of any one or more of the restrictions may be restrained or enforced by any court of competent jurisdiction and/or damages may be awarded against any such violator. Nothing herein shall be construed as meaning that damages are an adequate remedy where equitable relief is sought. In the event any such person employs an attorney or attorneys to enforce compliance with or specific performance of the terms and conditions of this Declaration, and prevails in such action, the Owner or Owners against whom the action is brought shall pay all attorneys' fees and costs incurred in connection with such action.

Section 5: The waiver of, or failure to enforce any breach or violation of any restriction herein contained shall not be deemed to be a permanent waiver of the right to enforce or be deemed an abandonment of the particular restriction or any of the restrictions; nor shall it be deemed to be a waiver of the right to enforce any subsequent breach or violation of such restriction or any of the restrictions. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these Restrictions) had knowledge of the breach or violation. No restrictions contained herein shall be deemed to have been abandoned or the right to enforce waived, unless this Declaration is amended to delete such restriction.

Section 6: Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

Section 7: Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction the Association construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and Properties benefited or bound by these Restrictions.

Section 8: The Association shall have the right to adopt rules and regulations and amend, cancel and adopt new rules and regulations from time to time, with respect to all aspects of the Association's rights, activities and duties, provided said rules and regulations are not inconsistent with the provisions of this Declaration, or the Articles of Incorporation or By-Laws of the Association.

Section 9: Anything to the contrary notwithstanding contained herein or otherwise, with respect to any grassy portions of the Common Areas as originally planted by the Developer, said grass will be maintained as originally planted and will not be changed to rock, granite or otherwise, without the consent of the owners of ten (10) of the lots in the Property.

Section 10: Wherever the words "first mortgage" are used or referred to in this Declaration, the words will also be deemed to include "first deed of trust," which terms may be used interchangeably.

Section 11: Wherever the context of this Declaration so requires words used in the masculine gender shall include the feminine and neuter genders. Words used in the neuter gender shall include the masculine and feminine genders, words in the singular shall include the plural, and the words in the plural shall include the singular.

Section 12: All captions, titles and headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or contents hereof.

CERTIFICATION

IN WITNESS WHEREOF, the President of the Association hereby certifies that the provisions contained with this Amended and Restated Declaration have been approved by the required number of Owners of Lots.

DATED this 20 day of December, 2014.

STRAWBERRY HILL VILLAGE AND RACQUET CLUB IMPROVEMENT ASSOCIATION, INC., an Arizona non-profit corporation

By: Virginia E Kennaway
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 20 day of December, 2014 before me personally appeared Virginia E Kennaway 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 this document.

Daniel Medina
Notary Public

Notary Seal:



