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AMENDMENTS TO CC&R's  
PARCEL NO. 3B

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KNOW ALL MEN BY THESE PRESENTS: THAT THE UNDERSIGNED OWNERS OF LOTS INCLUDED IN PARCEL #3B IN FOUNTAIN OF THE SUN AS RECORDED IN THE PLAT OF RECORD IN BOOK 155 OF MAPS, PAGE 26 THEREOF HEREBY AMEND THAT CERTAIN DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS DATED SEPTEMBER 15, 1972 RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY IN DOCKET <sup>979c</sup> PAGES <sup>95a</sup> <sup>UMB</sup> <sup>UMB</sup> IN THE FOLLOWING RESPECTS: THE FOLLOWING CHANGES WILL BE MADE TO EACH PARAGRAPH AS NOTED BELOW:

PARAGRAPH 4. TEMPORARY STRUCTURES - ADD THE FOLLOWING AT THE END OF THE PARAGRAPH: "NO RETAIL/COMMERCIAL OR DETACHED STORAGE SHEDS ARE ALLOWED."

SECTION D, PARAGRAPH 8. ANTENNAS; AIR CONDITIONERS DELETE THIS PARAGRAPH AND SUBSTITUTE THE FOLLOWING:

"8. HEATING, VENTILATING, AND AIR CONDITIONING (H.V.A.C.)  
SOLAR PANELS, ANTENNAS AND TOWERS; EVAPORATIVE COOLERS

(a) EQUIPMENT FOR HEATING, VENTILATION, AND AIR CONDITIONING MUST BE PLACED WITHIN THE HOME OR LIVING QUARTERS, EXCEPT HEAT EXCHANGERS SUCH AS HEAT PUMPS, OR COMPRESSOR CONDENSER UNITS MAY BE PLACED OUTSIDE THE EXTERIOR WALLS OF THE HOME OR LIVING QUARTERS, BUT NO NEARER TO ANY SIDE LOT LINE THAN IS PERMISSIBLE OR APPROVED BY THE ASSOCIATION OR EASEMENT REQUIREMENTS. IN OTHER WORDS,

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AIR HANDLING UNITS THAT DISTRIBUTE CONTROLLED TEMPERATURE AIR THE YEAR AROUND, BOTH HEATING AND COOLING, ARE TO BE INSTALLED INDOORS.

(b) EVAPORATIVE COOLERS MUST BE INSTALLED AT GRADE LEVEL AS A THRU-WALL SIDE MOUNTED TYPE, ON A PLATFORM THAT IS CONSTRUCTED BELOW THE ROOF PEAK AND MADE ATTRACTIVE TO ADJACENT PROPERTIES, OR ON THE ROOF (USING A LOW PROFILE TYPE UNIT) PROPERLY SCREENED FROM VIEW OF THE NEIGHBORHOOD OR STREET.

(c) SOLAR PANELS, FOR HOT WATER HEATING PURPOSES, MAY BE INSTALLED UPON THE ROOF OF A BUILDING CONTAINING A LIVING UNIT, PROVIDED SUCH PANELS AND ACCESSORIES RELATED THERETO, ARE FULLY SCREENED OR CONCEALED FROM VIEW WITH ADJACENT PROPERTIES. PARAPET WALLS, WHICH ARE AN INTEGRAL PART OF A STRUCTURE OR ATTRACTIVE SCREENING TO HIDE THE INSTALLATION ARE EXAMPLES OF CONCEALMENT. LOW PROFILE SYSTEMS, NOT HIGHLY VISIBLE OR UNATTRACTIVE WOULD ALSO BE CONSIDERED FOR APPROVAL.

(d) NO TELEVISION, RADIO, SHORT WAVE, OR ANY OTHER TYPE OF ANTENNAS, POLES, OR TOWERS SHALL BE PLACED, CONSTRUCTED OR MAINTAINED UPON ANY PROPERTY.

(e) NO LIGHTPOSTS OF ANY KIND THAT EXCEED THE HEIGHT OF EIGHT (8) FEET AS MEASURED FROM GRADE LEVEL TO THE TOP, SHALL

BE INSTALLED OR MAINTAINED ON ANY HOME PROPERTY.

(f) SATELLITE TV SCANNING DISHES ARE ALLOWED PROVIDED THE FOLLOWING PROVISIONS ARE MET:

1. A PLOT PLAN OF THE PROPOSED LOCATION OF THE INSTALLATION OF THE DISH IN THE REAR QUARTER OF THE PROPERTY, CLEAR OF ANY EASEMENTS (SHOULD THEY APPLY), MUST BE SUBMITTED WITH THE REQUEST.
2. THE MAXIMUM HEIGHT ABOVE GROUND SHALL BE EIGHT (8) FEET.
3. THE DISH SHOULD BE COMPLETELY SCREENED FROM VIEW ON ALL SIDES BY VEGETATION (TREES AND/OR SHRUBS).
4. ALL ADJACENT NEIGHBOR APPROVALS, IN THE FORM OF SIGNED STATEMENTS SHOULD ACCOMPANY THE REQUEST.

ALL OF THE ABOVE WOULD BE SUBJECT TO THE APPROVAL OF THE ASSOCIATION.

ANY EXISTING STRUCTURES THAT WERE IN PLACE BEFORE THE ADOPTION OF THESE AMENDMENTS SHALL NOT BE AFFECTED."

PARAGRAPH 10. VEHICLES, CHANGE TO READ AS FOLLOWS:

"10. VEHICLES

PRIVATE PASSENGER AUTOMOBILES, PASSENGER VANS AND PICKUP TRUCKS, INCLUDING PICKUP TRUCKS WITH CAMPER SHELLS NO HIGHER THAN THE PASSENGER CAB COMPARTMENT MAY BE PARKED ON THE STREET ONLY DURING THE DAY AND MUST BE PARKED ON THE

DRIVEWAY, OR IN A GARAGE OR CARPORT AT NIGHT. TRUCKS LARGER THAN PICKUP CLASS AND VEHICLES OTHER THAN DESCRIBED SHALL NOT BE KEPT ON ANY LOT OR STREET EXCEPT IN AREAS DESIGNATED THEREFOR BY THE ASSOCIATION, UNLESS THEY ARE HOUSED ENTIRELY WITHIN AN ENCLOSED GARAGE. NO MOTOR VEHICLE OR PART THEREOF WHICH IS UNDER REPAIR, NOT IN OPERATING CONDITION OR UNREGISTERED SHALL BE PLACED OR PERMITTED TO REMAIN ON THE STREET OR STREETS OR ANY PORTION OF ANY LOT OR LOTS UNLESS IT IS WITHIN A CLOSED GARAGE OR STRUCTURE. NO VEHICLE MAY BE PARKED ANYPLACE ON THE LOT EXCEPT ON THE CONCRETE DRIVEWAY. DRIVEWAYS SHALL BE ESTABLISHED ON THE PROPERTY ONLY WHERE THE CONCRETE IS CUT FOR SUCH PURPOSE. NO BOATS OR BOAT TRAILERS SHALL BE CONSTRUCTED, KEPT OR MAINTAINED UPON ANY LOT.

ADD TO PARAGRAPH 11. COMMERCIAL USE THE FOLLOWING THREE PARAGRAPHS:

"IN ACCORDANCE WITH CITY OF MESA ZONING ORDINANCE, CHAPTER 1, SECTION 11-1-6, ACCESSORY USE, THE FOLLOWING ACTIVITIES ARE ALLOWED: HOBBIES AND OTHER ACTIVITIES PROVIDED THERE IS NO NON-RESIDENT EMPLOYEE, EXTERIOR STORAGE, COMMERCIAL STORAGE OR OTHER EXTERIOR INDICATION OF A NON-RESIDENTIAL USE; AND

"SHALL NOT INCLUDE ANY COMMERCIAL USE EXCEPT THE FURNISHING OF SERVICES FOR COMPENSATION LIMITED TO SWIMMING AND FINE ARTS INSTRUCTION, SEWING, TELEPHONE SOLICITATION, AND ARTS AND CRAFTS. NO DOOR TO DOOR SOLICITATION IS ALLOWED."

"THE ABOVE TWO PARAGRAPHS ALLOW USE FOR RECREATION AND PROFIT THOSE PART-TIME HOBBIES AND SKILLS WHICH ARE USEFUL TO THE RESIDENTS PROVIDED THE CONDITIONS OF THE MESA ZONING CODE AND THESE CC&Rs ARE MET."

ADD THE FOLLOWING SENTENCE AT THE BEGINNING OF PARAGRAPH 15.

OBSTRUCTIONS AND INTERFERENCES:

"NO FENCES IN FRONT YARDS THAT ARE WITHIN FIFTEEN (15) FEET OF THE STREET ABUTTING THE FRONT YARD SHALL BE CONSTRUCTED OVER SIX (6) INCHES IN HEIGHT."

IN PARAGRAPH 20. SETBACKS ADD THE FOLLOWING WORDS AT THE END OF THE SENTENCE: "AND SHALL CONFORM TO MARICOPA COUNTY AND CITY OF MESA ZONING REQUIREMENTS."

ADD THE FOLLOWING NEW PARAGRAPH 22 AND RENUMBER ALL SUCCEEDING PARAGRAPHS ACCORDINGLY:

"22. AGE RESTRICTIONS

AT LEAST ONE OCCUPANT OF EACH LIVING UNIT MUST BE 55 YEARS OF AGE OR OLDER; PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT APPLY TO CURRENT OCCUPANTS WHO FIRST OCCUPIED THE LIVING UNIT PRIOR TO SEPTEMBER 13, 1988. IF AN OCCUPANT WHO IS 55 YEARS OF AGE OR OLDER DIES, THE REMAINING OCCUPANTS OF THE LIVING UNIT MAY CONTINUE TO OCCUPY THE LIVING UNIT EVEN THOUGH NONE OF SUCH PERSONS ARE 55 YEARS OF AGE OR OLDER. NO PERSON

UNDER EIGHTEEN (18) YEARS OF AGE SHALL OCCUPY OR RESIDE IN A LIVING UNIT FOR MORE THAN NINETY (90) DAYS DURING ANY TWELVE (12) MONTH PERIOD. THE PROVISIONS SET FORTH IN THIS SECTION ARE FOR THE PURPOSE OF ESTABLISHING THE POLICIES AND PROCEDURES NECESSARY FOR THE PROPERTY TO QUALIFY FOR THE AGE 55 OR OVER HOUSING EXEMPTION UNDER THE FAIR HOUSING AMENDMENTS ACT OF 1988. THE BOARD OF DIRECTORS IS AUTHORIZED TO ADOPT SUCH OTHER POLICIES AND PROCEDURES WHICH MAY BE NECESSARY FROM TIME TO TIME IN ORDER FOR THE PROPERTY TO MEET ALL OF THE REQUIREMENTS FOR THE AGE 55 OR OVER HOUSING EXEMPTION.

CHANGE PARAGRAPH 23. DURATION OF COVENANTS TO BE NUMBER 24 AND ADD THE FOLLOWING AT THE END OF THE PARAGRAPH: "(WITH THE OWNERS OF A LOT HAVING MORE THAN ONE OWNER TO BE AFFORDED COLLECTIVELY ONE VOTE)."

CHANGE PARAGRAPH 29 ENFORCEMENT; MORTGAGE SAVINGS TO BE:

"30. ENFORCEMENT

"VIOLATION OF ANY ONE OR MORE OF THE COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED HEREIN MAY BE ENJOINED BY ANY COURT OF COMPETENT JURISDICTION AND/OR DAMAGES AWARDED AGAINST ANY VIOLATOR."

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ANY CONDITIONS PRE-EXISTING AT THE TIME OF ACCEPTANCE OF THESE CHANGES WILL BE GRANDFATHERED, PROVIDED THOSE CONDITIONS WERE NOT IN VIOLATION OF ANY COVENANT, CONDITION OR RESTRICTION IN EFFECT AT THE TIME OF ACCEPTANCE OF THESE CHANGES.

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THESE AMENDMENTS ARE MADE PURSUANT TO THE TERMS OF THE ABOVE DESCRIBED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND SHALL BECOME EFFECTIVE ON SEPTEMBER 1, 1991 WITHOUT FURTHER ACT OF ANY PARTY AS TO EACH AMENDMENT WHICH IS APPROVED BY THE OWNERS OF 75% OF THE LOTS. IN THE EVENT THAT THE OWNERS OF THE REQUIRED NUMBER OF LOTS HAVE NOT SIGNED THIS DOCUMENT OR A COUNTERPART HEREOF ON OR BEFORE SEPTEMBER 1, 1991, THIS DOCUMENT SHALL BECOME NULL AND VOID. THIS DOCUMENT MAY BE EXECUTED IN ANY NUMBER OF COUNTERPARTS, AND ALL OF SAID COUNTERPARTS SHALL BE RECORDED IN THE OFFICE OF THE MARICOPA COUNTY RECORDER ON OR BEFORE SEPTEMBER 1, 1991, PROVIDED IT IS APPROVED BY THE REQUIRED NUMBER OF LOT OWNERS.

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