

Old Republic Title Agency

WHEN RECORDED, RETURN TO:

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**FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR ESTATES AT 32ND STREET**

**THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR ESTATES AT 32ND STREET** is made this
5 day of December, 2016, by **PINNACLE RIDGE HOLDINGS, LLC**, an Arizona limited
liability company ("**Declarant**") as follows:

RECITALS

A. Declarant executed and recorded that Declaration of Covenants, Conditions and Restrictions for Estates at 32nd Street dated March 29, 2016 and recorded March 31, 2016 as Document No. 2016-0208448, Official Records of Maricopa County, Arizona (the "**Declaration**").

B. Declarant desires to amend the Declaration as provided herein and has the right, power and authority to amend the Declaration under Section 8.6 of the Declaration by virtue of its voting power in the Association.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. Section 5.20 of the Declaration is hereby deleted in its entirety and replaced with the following:

5.20 Model Homes. The provisions of this Declaration which may prohibit nonresidential use of Lots and which regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by Declarant or a Homebuilder (with Declarant consent) engaged in the construction or marketing of Dwelling Units or parking incidental to the visiting of such model homes, so long as the location of such model homes and parking areas, and hours of operation, are approved in advance by the Committee, and the construction, operation and maintenance of such model homes otherwise comply with all of the provision of this Declaration. Any Dwelling Unit constructed as model home shall cease to be used as a model home at such time when the Owner thereof is no longer actively engaged in the construction and sale of residential dwellings from such model home. Declarant or a Homebuilder (with Declarant consent) may use a Dwelling Unit as a model home for the sale of homes not located within the Property.

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2. Section 5.22 of the Declaration is hereby deleted in its entirety and replaced with the following:

5.22. Landscaping; Lot Improvements; Weed Control; Landscaping if Dwelling Unit is Removed. Subject to the variance provisions of Section 7.3 below, the landscaping for the front portion of the Lot not installed by Declarant or a Homebuilder in conjunction with the sale of the Lot must be installed and substantially completed in an attractive manner by the Owner within two (2) months from the Owner's acquisition of the Lot from Declarant or Homebuilder, and the landscaping for the rear and side portions of the Lot not installed by Declarant or a Homebuilder in conjunction with the sale of the Lot must be installed and substantially completed in an attractive manner by the Owner within six (6) months from the Owner's acquisition of the Lot from Declarant or Homebuilder. Such landscaping shall be installed based upon landscape plans therefor approved in advance by the Committee pursuant to Article 7 below. The responsibility of each Owner to landscape the front portion of its Lot shall include, without limitation, the Owner's installation of a minimum of three (3) 36" box or larger street trees in those locations specified in the landscape plans approved by the Committee, in one of the following three (3) tree varieties: Southern Live Oak, Fantex Ash or Red Push Pistache. The landscape plans submitted to the Committee must include any proposed changes in grade to be accomplished as part of the landscaping development. All landscaping, at all times, must be maintained by each Owner in a neat and attractive manner and any alterations or modifications made to the original landscaping of a Lot as originally installed shall be approved in advance by the Committee. Further, each Owner must maintain, repair and restore any and all vegetation, grades, slopes, retaining walls and drainage structures (collectively "**Lot Improvements**") as installed by Declarant or a Homebuilder on a Lot or which has been approved by the Committee. Without limiting the foregoing, the Owners of Lots 7 through 19, inclusive, within the Project shall maintain those citrus trees and flood irrigation improvements that have been installed as part of the original landscaping in the rear of the backyards of Lots 7 through 19, inclusive.

In the event a Dwelling Unit is totally or substantially destroyed, and the Dwelling Unit is not promptly rebuilt, the Owner shall, within three (3) months, remove all destroyed or damaged Improvements and landscape the Lot as approved by the Committee. Further, if the Dwelling Unit is torn down or removed and not promptly replaced with a new Dwelling Unit, the Owner will remove all debris and will, within three (3) months, landscape the Lot as approved by the Committee. The Owner will maintain all landscaping on the vacant Lot in accordance with this section.

If any Owner does not: (i) install and complete approved landscaping in the front portion of the Lot within the two (2) month period described above, or install and complete approved landscaping in the rear or side portions of the Lot within the six (6) month period described above; (ii) maintain his landscaping in a neat and attractive manner as provided above; (iii) maintain his landscaping in a

neat and attractive manner as provided above; (iv) maintain all Lot Improvements on the Lot; (v) keep the Lot free from weeds, including vacant Lots where no Dwelling Unit is then constructed, or (vi) comply with the preceding paragraph relating to landscaping of Lots without Dwelling Units, the Declarant or the Association (by action of the Board) pursuant to Section 3.9, after giving the Owner fifteen (15) days' written notice to cure any such default, shall have the right to cause the necessary landscaping work or Lot Improvement to be done and the Owner in default shall be responsible for the cost thereof, together with interest thereon at the rate of twelve percent (12%) per annum until paid. If the Association does the work, the costs and interest shall be a Lot Specific Assessment. If Declarant does the work, Declarant shall have a lien on the defaulting Owner's Lot for the costs and interest. In addition to the foregoing, any party may utilize remedies available under Section 8.1 for such Owner's default.

3. The first sentence of Section 6.4(A) of the Declaration is hereby deleted in its entirety and replaced with the following:

A. Fences which may be constructed by Declarant or a Homebuilder upon the dividing line between Lots or between a Lot and Common Area, or near or adjacent to said dividing line because of minor encroachments due to engineering errors (which are hereby accepted by all Owners and the Association in perpetuity) or because existing easements prevent a fence from being located on the dividing line, are "**Party Walls**" and shall be maintained and repaired at the joint cost and expense of the adjoining Lot Owners, or of the adjoining Lot Owner and the Association if the Party Wall divides a Lot and Common Area.

4. Section 9.1 of the Declaration is hereby deleted in its entirety and replaced with the following:

9.1 Drainage and Onsite Retention. The Project has been approved by the City subject to certain requirements and restrictions with respect to drainage. Certain parcels within the Project will be required to receive rain water from streets, and rain water from the Project must drain onto the Common Area. All areas defined as retention basins on the approved grading plan for the Project shall remain at the grades indicated on the approved grading plan on file with the City and nothing will be constructed to hinder the flow of storm water from public streets to these retention basins. The Improvements within the retention areas located on Common Area, including but not limited to landscaping, irrigation systems, storm drains and bleed off, will be maintained by the Association.

Drainage blocks, drainage holes, built-in drains or gutters may be installed near or at courtyards and/or at rear and/or side yards of Lots, and it is the responsibility of the Owner of each Lot to keep such improvements free of debris at all times to avoid potential drainage, structural and/or flooding problems. **Furthermore, certain Dwelling Units featuring the design plan known as "Residence #8" have an interior courtyard with built-in drains that must be**

kept clean and free of debris at all times. These drains flow to front yard holding tanks with an electric sump pump and water outlet pipe that is intended to turn on automatically in the event a rain storm brings more rain than the drainage pipes and holding tanks can hold. Owners must be diligent in keeping the drains and drainage outlets clear of debris at all times as well as regularly checking the electrical breaker to make sure there is electrical power to the sump pump. Otherwise, the interior courtyard will overflow and flood the home during heavy rainstorms. The foregoing obligations shall be the responsibility of each Owner of an applicable Dwelling Unit (and not the Association, Declarant or any other party). In addition, all concrete courtyards have been designed to provide positive drainage away from the Dwelling Units, and Owners must not reconstruct or remove existing concrete floors and/or obstruct drainage in any way within the courtyard areas of the Dwelling Units, if any.

The provisions of this section constitute a covenant running with the land of the Project and each Lot within the Project, and upon recording, shall be binding upon any subsequent purchaser or occupier of any part of the Project.

5. The Declaration is amended by adding the following paragraph as Section 9.3 of the Declaration:

9.3 Decorative Carriage House; Airport Proximity; No Liability of Association, Declarant and Homebuilders for Certain Matters.

(a) The decorative carriage house that is intended to be constructed at the McKellips Road entrance to the Project is strictly decorative and is not intended to be staffed with security personnel. The Association, Declarant and any Homebuilder(s) do not make any representations or warranties that the decorative carriage house will provide security and safety to Owners, Lessees and residents or their respective guests or other invitees. Each Owner, Lessee and resident, on behalf of its family members, guests and invitees, assumes the risk that the decorative carriage house may not provide security and safety.

(b) The Project is located within two (2) miles of Falcon Field Airport (the “**Airport**”). Aircraft taking off from or landing at the Airport will have flight patterns over or nearby the Project, which may generate possible noise intrusion, vibrations, falling debris, dust and other intrusions. Each Owner, Lessee and resident, on behalf of its family members, invitees and licensees, assumes any and all risks, burdens and inconveniences as may now or hereafter be or become associated with the proximity of the Airport to the Project.

(c) Each Owner, Lessee and resident, on behalf of its family members, invitees and licensees, hereby releases the Association, Declarant and any Homebuilder(s) from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (including but not limited to strict liability) arising out of or relating to any nuisance, inconvenience, disturbance, injury to

persons or damage to property resulting from activities or occurrences described in this Section above.

IN WITNESS WHEREOF, Declarant has executed this First Amendment to be effective on the date set forth above.

PINNACLE RIDGE HOLDINGS, LLC, an Arizona limited liability company

By: [Signature]
Its: Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

Acknowledged before me this 5 day of December, 2016, by JEFF BLANDFORD, the MANAGER, of **PINNACLE RIDGE HOLDINGS, LLC**, an Arizona limited liability company, on behalf of the limited liability company.

[Signature]

My Commission Expires:
06-04-18

