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**FIFTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR FOOTHILLS CLUB WEST GOLF COURSE**

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Foothills Club West Golf Course was recorded February 19, 1993, at 93-0099989, records of Maricopa County Recorder (“Original Declaration”);

WHEREAS, the Original Declaration was amended by a document titled “Modification of Covenants, Conditions and Restrictions for Foothills Club West Golf Course” recorded on July 12, 1994 at 94-0535274, records of Maricopa County Recorder (“First Amendment”);

WHEREAS, the Original Declaration and the First Amendment were amended by a document titled “Second Modification of Covenants, Conditions and Restrictions for Foothills Club West Golf Course” recorded on August 1, 1994 at 94-0582735, records of Maricopa County Recorder (“Second Amendment”);

WHEREAS, the Original Declaration, the First Amendment, and Second Amendment were amended by a document titled “First Amendment to Covenants, Conditions and Restrictions for Foothills Club West Golf Course” recorded on May 19, 1998 at 98-0414979, records of Maricopa County Recorder (“Third Amendment”);

WHEREAS, the Original Declaration, the First Amendment, the Second Amendment, and Third Amendment were amended by a document titled “First Amendment to Declaration of Covenants, Conditions and Restrictions for Foothills Club West Golf Course” recorded on October 8, 2018 at 2018-0753974, records of Maricopa County Recorder (“Fourth Amendment”) (collectively, the Original Declaration, the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment referred to as the “Golf Course Declaration”);

WHEREAS, Section 6.2 of the Golf Course Declaration provides that the “Declarant” shall have the right to amend the Golf Course Declaration;

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Foothills Club West was recorded on July 21, 1989 at 89-337438, records of Maricopa County Recorder (“FCWCA Declaration”);

WHEREAS, Section 3.1.6 of the FCWCA Declaration provides that the voting rights of a Non-Residential Parcel in the affairs of the Foothills Club West Community Association, an Arizona nonprofit corporation (“FCWCA”) shall be as set forth in a “Tract Declaration”;

WHEREAS, the Golf Course Declaration was and is a “Tract Declaration” as that term is defined in Section 1.49 of the FCWCA Declaration;

WHEREAS, On September 17, 2010, the “Declarant Rights” under the Original Declaration, the First Amendment, Second Amendment, and Third Amendment were assigned to the Foothills Club West Community Association, an Arizona nonprofit corporation (“FCWCA”) via “Assignment of Declarant Rights” recorded at 2010-0806003, records of Maricopa County Recorder.

THEREFORE, FCWCA hereby exercises its right to amend the Golf Course Declaration as follows:

1. The voting rights of the owner of the Golf Course Property as that term is defined in the Golf Course Declaration shall be 0.26 votes per Net Acre in the Golf Course Property.
 - a. The “Net Acreage” of the Golf Course Property (155.5 Net Acres) is as follows:
 - i. Maricopa County Assessor Parcel # 300-36-993L – 97.97 Net Acres;
 - ii. Maricopa County Assessor Parcel # 300-36-993E – 3.67 Net Acres;
 - iii. Maricopa County Assessor Parcel # 300-36-993G – 3.82 Net Acres;
 - iv. Maricopa County Assessor Parcel # 300-36-993D – 9.05 Net Acres;
 - v. Maricopa County Assessor Parcel # 300-36-993B – 31.37 Net Acres; and
 - vi. Maricopa County Assessor Parcel # 300-36-993F – 9.62 Net Acres.
 - b. The total votes allocated to the Golf Course Property in the affairs of the FCWCA is therefore 41.66 total votes.

2. The obligation to pay Assessments to FCWCA under Section 8.7.4 of the FCWCA Declaration is set in the applicable Tract Declaration.
 - a. The Golf Course Property consists of the following six Parcels:
 - i. Maricopa County Assessor Parcel # 300-36-993L;
 - ii. Maricopa County Assessor Parcel # 300-36-993E;
 - iii. Maricopa County Assessor Parcel # 300-36-993G;
 - iv. Maricopa County Assessor Parcel # 300-36-993D;
 - v. Maricopa County Assessor Parcel # 300-36-993B; and
 - vi. Maricopa County Assessor Parcel # 300-36-993F.
 - b. The total amount of the assessments payable by the owner of the Golf Course Property shall be \$64.30 per Net Acre as set forth in Section 8.7.4 of the FCWCA Declaration (or Ten Thousand Dollars per year (\$10,000.00)).
3. Section 1.1 of the Golf Course Declaration is amended to add the following sentence at the end of Section 1.1:
 - a. It shall not be deemed that the Golf Course Property is used as a golf course and driving range unless the grass and landscaping are maintained at all times for golf course play. For any period where the Golf Course Property is not maintained for golf course play such failure to maintain the Golf Course Property shall be a violation of this Section 1.1 for all periods where the Golf Course Property is not maintained for golf course play.
4. FCWCA reserves the right to suspend the owner of the Golf Course Property pursuant to Section 2.1.2 of the FCWCA Declaration and Section 3.12 of the FCWCA Bylaws for violations of the Golf Course Declaration, the FCWCA Declaration or the failure to pay Assessments to FCWCA.
5. Except as expressly amended by this Fifth Amendment, all other terms, easements, restrictions, covenants and conditions set out in the Golf Course Declaration shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed

