

Upon recording, please return to:
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Scottsdale, Arizona 85260

FILE

Legal

Reference to Declaration: Instrument No. 99-0042711
Community Covenant: Instrument No. 99-0042710

**SUPPLEMENTAL DECLARATION
FOR
ANTHEM PARKSIDE
The Landing at Anthem Neighborhood
(Anthem Unit 22)**

THIS SUPPLEMENTAL DECLARATION ("Supplemental Declaration") is made this 3rd day of April, 2003, by ANTHEM ARIZONA L.L.C., an Arizona limited liability company ("Declarant").

WITNESSETH

WHEREAS, on January 15, 1999, Declarant filed that certain Declaration of Covenants, Conditions, and Restrictions for Anthem Parkside in the Office of the County Recorder of Maricopa County, Arizona, as Instrument No. 99-0042711 (as amended heretofore and as may be further amended from time to time, the "Declaration"); and

WHEREAS, pursuant to the terms of Section 9.1 of the Declaration, until the earlier of when all of the property described in Exhibit "B" to the Declaration has been subjected to the Declaration or 40 years after the Declaration was Recorded, Declarant may subject to the provisions of the Declaration all or any of the property described on Exhibit "B" to the Declaration by Recording a Supplemental Declaration describing the additional property; and

WHEREAS, all of the property described in Exhibit "B" to the Declaration has not yet been subjected to the Declaration; and

WHEREAS, the real property described in Exhibit "A" attached hereto (the "Additional Property") is a portion of the property described in Exhibit "B" to the Declaration; and

WHEREAS, Declarant is the owner of the Additional Property; and

WHEREAS, Declarant desires to submit the Additional Property to the Declaration and to the jurisdiction of the Anthem Parkside Community Association, Inc. ("Association"); and

WHEREAS, Declarant desires to designate the Additional Property as a newly-created Neighborhood under the Declaration and to subject such property to additional covenants pursuant to Section 6.4 of the Declaration; and

WHEREAS, on June 29, 1999, the Association, along with the Anthem Community Council, Inc. ("Community Council"), filed that certain Assignment of Assessment Invoicing, Collection, and Lien Rights in the Office of the County Recorder of Maricopa County, Arizona as Instrument No. 99-617323 (as may be amended from time to time, the "Assignment"); and

WHEREAS, the Assignment is intended, by its terms, to assign to the Community Council the Association's rights and authority to invoice and collect assessments under the Declaration;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby subjects the real property described on Exhibit "A" hereof to the provisions of the Declaration and to the provisions of this Supplemental Declaration, which shall apply to such property in addition to the provisions of the Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration and the Declaration, both of which shall run with the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of ^{Unofficial Document} this Supplemental Declaration shall be binding upon the Association in accordance with the terms of the Declaration.

The property described in Exhibit "A" also shall be subject to that certain Declaration of Covenants and Easements for Anthem, filed with the Office of the County Recorder of Maricopa County, Arizona, as Instrument No. 99-0042710 (as amended heretofore and as may be further amended from time to time, the "Community Covenant"), and the jurisdiction of the Community Council in accordance with the terms of the Declaration, the Community Covenant, and the Assignment.

Article I **Definitions**

The definitions provided in the Declaration are incorporated by reference.

Article II **Neighborhood Designation**

Pursuant to the Declaration, the property described in Exhibit "A" is hereby assigned to, and designated as being within and a part of, the newly created Neighborhood known as "The Landing at Anthem."

In addition to the real property described in Exhibit "A," other property may be added to and made a part of The Landing at Anthem and subjected to the covenants and easements set forth in this Supplemental Declaration. References in this Supplemental Declaration to the Additional Property shall be deemed to include any property assigned to and made a part of The Landing at Anthem in the future.

Article III
Additional Covenants

3.1 Private Streets and Related Facilities - Limited Common Areas. The streets within the Additional Property shall be private streets owned or to be owned by the Association as Limited Common Area for the primary use and benefit of the Owners and occupants of Lots within the Additional Property, and their family members, tenants, guests, and invitees. The Association may promulgate and enforce rules and restrictions concerning use of the private streets and other portions of the Limited Common Area within the Additional Property, including, without limitation, speed limits and rules which limit or exclude access into the Additional Property.

In addition, all improvements lying within the private streets, including, without limitation, the entry gates and electric street lights, and any entry monument identifying the Neighborhood also shall be Limited Common Area of the Owners of Lots within the Additional Property.

The Association, Declarant and ^{Unofficial Document} ~~any person~~ constructing improvements within the Additional Property make no representation or warranty that any systems or measures, insuring any mechanism or system for limiting or restricting access to the Additional Property cannot be compromised or circumvented, or that any such systems or security measures undertaken will in any case prevent loss or provide the detection of protection for which the system is designed or intended. Each Owner of a Lot within the Additional Property acknowledges, understands, and covenants to inform its tenants and all occupants of its Lot that the Association, the Board, and committee members, Declarant, and Builders are not insurers of safety and that all Persons within the Additional Property and Anthem Parkside assume all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from the acts of third parties.

3.2 Obligation to Pay Neighborhood Assessments. In addition to other authorized assessments, each Lot within the Additional Property shall be subject to, and the Owner thereof shall be obligated to pay, Neighborhood Assessments pursuant to Sections 6.4 and 8.2 of the Declaration to cover the costs of maintaining, operating, insuring, repairing, and replacing the Limited Common Area within the Additional Property. Except as otherwise provided in the Declaration or this Supplemental Declaration, Neighborhood Assessments shall be allocated equally among each Lot within the Additional Property. Declarant's obligations with respect to the payment of Neighborhood Assessments on Lots which it owns within the Additional Property shall be governed by Section 8.7(b) of the Declaration, and a Builder's obligations with respect to payment of Neighborhood Assessments on Lots which it owns within the Additional Property shall be governed by Section 8.6 of the Declaration.

Notwithstanding the above, any costs and expenses the Association incurs as a consequence of the conduct of the Owner or occupants of a Lot, their agents, contractors, employees, licensees, invitees, or guests may be assessed as a Benefited Assessment against the Lot and the Owner in accordance with Section 8.5 of the Declaration.

3.3 Reserve Fund for Private Streets and Other Limited Common Areas. In addition to any other Association reserve funds, the Association shall prepare and review periodically a reserve budget dedicated to the maintenance and repair of the private streets and other Limited Common Areas within the Additional Property ("Neighborhood Reserve"). If the Board elects, in the exercise of its business judgment, to fund the Neighborhood Reserve, it shall include amounts to be allocated to the Neighborhood Reserve in the Neighborhood reserve budget prepared in accordance with Section 8.3 of the Declaration, and such amounts shall be levied and collected as part of the Neighborhood Assessment in accordance with Article VIII of the Declaration. The Association shall hold the Neighborhood Reserve in a separate account and shall not commingle such funds with any other Association account.

3.4 Association's Maintenance Responsibility. The Association shall maintain the Limited Common Area in accordance with the Community-Wide Standard.

The Association's expenses incurred in performing the maintenance of Limited Common Areas described above shall generally be Neighborhood Expenses to be assessed against all Owners of Lots within the Additional Property as a Neighborhood Assessment.

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3.5 Easement for Maintenance. The Association shall have a perpetual, nonexclusive easement over all of the Additional Property, including each Lot (but not inside any structure within a Lot), for the purpose of performing its maintenance responsibilities under Section 3.4 of this Supplemental Declaration. The Association, its officers, directors, employees, agents, and contractors, without prior notice, may exercise such easement and entry upon any Lot for such purpose shall not be deemed a trespass.

3.6 Easement Over Private Streets. Each Owner of a Lot within the Additional Property, and their family members, tenants, guests, and invitees, shall have a non-exclusive right and easement of use and enjoyment of the Limited Common Areas serving the Additional Property and an easement of access, ingress, and egress over the private streets within the Additional Property.

In addition, Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the private streets within the Additional Property for public and private utility providers; law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel and other customary public service personnel (i.e., mail delivery, overnight delivery service, courier services, etc.); for vehicles, equipment, and personnel providing solid waste collection service to Anthem Parkside; and for government employees in pursuit of their official duties (as defined in applicable local ordinances); provided, such easement shall not authorize any such Persons to enter the Additional Property except while acting in their official capacities and subject to such reasonable regulations as the Association may impose.

The existence of this easement shall not preclude the Association from maintaining gates or other devices or systems designed to limit general vehicular access to the Additional Property, provided that the Association at all times maintains systems and/or procedures to permit the uncontested entry of Persons authorized to exercise the easements granted in this Section. Each Owner, for itself and its family members, tenants, guests and invitees, assumes the risk that any

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such gated entrances may restrict or delay entry into the Additional Property by the police, fire department, ambulances and other emergency vehicles and personnel. Neither the Association, the Board, committee members, Declarant nor Builders, nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Owner, its family members, tenants, guests and invitees for any claims or damages resulting, directly or indirectly, from the construction, operation, existence or maintenance of the gated entrances.

This Supplemental Declaration, and the easement rights provided in this Section, shall not limit the easement rights otherwise reserved to the Association and Declarant under the Declaration.

3.7 Easements for Golf Course.

(a) The Additional Property is burdened with an easement permitting golf balls unintentionally to travel over and come upon such areas, and for golfers at reasonable times and in a reasonable manner to come upon the Common Area to retrieve errant golf balls. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls.

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(b) Any portion of the Additional Property adjacent to or in the vicinity of a golf course is hereby burdened with a non-exclusive easement for overspray of water from the irrigation system serving such golf course.

(c) Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls, overspray of water or the exercise of this easement: Declarant; the Association or its Members (in their capacities as such); the Anthem Country Club Community Association, Inc. or its members (in their capacities as such); the Council; the owner(s), operator or lessee of any golf course, or assigns; any Builder or contractor (in their capacities as such); any officer, director, member or partner of any of the foregoing, or any officer or director of any member or partner.

3.8 Conversion of Private Streets to Public Streets. The streets within the Additional Property shall be private unless the Owners of 80% of the Lots within the Additional Property agree in writing to dedicate the streets for public ownership and use; provided, the requirements of Sections 15.5 and 18.4 of the Declaration relating to the dedication or conveyance of Common Area also shall be met, if applicable. In addition, the requirements of the public entity intended to own the streets for converting private streets to public streets also shall be met.

3.9 Provision of Services. As set forth in Section 7.8 of the Declaration, the Association may, in its discretion or at the request of a Lot Owner or Owners, provide, or provide for, and require, services for all or any of the Lots within the Additional Property and such Lot's Owners and occupants. The Board may levy Benefited Assessments against particular Lots for such services, it may charge use or service fees for any such services, or it may include the costs in the budget for the Additional Property as a Neighborhood Expense and assess it as part of the Neighborhood Assessment, if provided to all Lots within the Additional Property.

3.10 Neighborhood Use Restrictions.

(a) The Use Restrictions set forth in Exhibit "C" to the Declaration, as may be amended as provided in the Declaration, shall apply to the Additional Property. In addition, the Additional Property may be made subject to additional "Neighborhood Use Restrictions," and the Board may enact rules pertaining specifically to the use of the Limited Common Areas within the Additional Property.

(b) The Board and the Owners of Lots within the Additional Property may change (i.e., modify, cancel, limit, create exceptions to, or add to) the Neighborhood Use Restrictions in the same manner, and subject to the same limitations, as provided in Article III of the Declaration for changes to the Use Restrictions attached as Exhibit "C" to the Declaration; provided, to the extent that the Declaration requires approval or disapproval of a specified percentage of Class "A" Members within Anthem Parkside to amend the Use Restrictions, such provision shall be read to require only the approval of the specified percentage of Owners of Lots within the Additional Property to amend the Neighborhood Use Restrictions. In addition, any amendment to the Neighborhood Use Restrictions shall require the approval of the Class "B" Member, if any.

3.11 Limitation of Liability. The Association shall, to the fullest extent permitted by law, release, indemnify, defend, and hold harmless Declarant and any Builder constructing improvements within the Additional Property (including their successors and assigns) from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and costs at all tribunal levels and whether or not suit is instituted, including those incurred in establishing the right to be indemnified, defended, and held harmless pursuant hereto) which relate or arise out of the construction, maintenance, and repair of the private streets and other Common Areas within the Additional Property. Upon completion of improvements to the Common Areas within the Additional Property, the Owner thereof shall convey such Common Areas to the Association, and the Association shall accept all such areas and improvements in an "as is" condition.

Article IV **Amendment**

4.1 Corrective Amendments. Until the first Lot within the Additional Property is conveyed to a Class "A" Member other than a Builder, Declarant may unilaterally amend this Supplemental Declaration for any purpose.

Thereafter, Declarant, or the Board with Declarant's consent, may unilaterally amend this Supplemental Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots; or (d) to satisfy the requirements of any local, state, or federal governmental agency.

However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing.

In addition, so long as Declarant owns any portion of the Additional Property for development as part of Anthem Parkside, it may unilaterally amend this Supplemental Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner. Declarant also may amend this Supplemental Declaration, as provided in Section 6.4 of the Declaration, to redesignate Neighborhood boundaries.

Declarant's right to amend this Supplemental Declaration includes the right unilaterally, without prior notice and without the consent of any Person, to withdraw property then owned by Declarant, its affiliates, or the Association from the coverage of this Supplemental Declaration, to the extent originally included in error or as a result of any changes in Declarant's plans for the Additional Property or for Anthem Parkside in general.

4.2 Amendments by Class "A" Members. Except as provided in Section 4.1, this Supplemental Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members ^{Unofficial Document} representing $\frac{1}{3}$ of the Class "A" votes assigned to Lots within the Additional Property. In addition, Board consent is required for any amendment by the Class "A" Members.

So long as Declarant owns any property subject to the Declaration or which may become subject to the Declaration in accordance with Section 9.1 of the Declaration, Declarant's written consent also is required for any amendment.

4.3 Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant (or the assignee of such right or privilege). Additionally, no amendment may remove, revoke, or modify any right or privilege of the Anthem Community Council, Inc. without the Council's written consent.

The approval requirements set forth in Sections 15.5 and 18.4 of the Declaration also shall be met, if applicable.

Any amendment validly adopted by the Board shall be certified by the President or Secretary of the Association, and shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recording or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Supplemental Declaration.

Nothing in this Article shall be construed to permit termination of any easement created in this Supplemental Declaration without the consent of the holder of such easement.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration the date and year first written above.

DECLARANT:

ANTHEM ARIZONA L.L.C., an Arizona limited liability company

By: *[Signature]*

Name: Benjamin S. Redman

Title Vice President, General Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

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The foregoing instrument was acknowledged before me this 4 day of April, 2003, by Benjamin S. Redman, as the Vice President, General Manager of ANTHEM ARIZONA L.L.C., an Arizona limited liability company, on behalf of the company

[Signature]
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 8-10-03



EXHIBIT "A"
Additional Property
The Landing at Anthem Neighborhood

Lots 1 through 182, inclusive, and Tracts A through F, inclusive, of ANTHEM UNIT 22 (THE LANDING AT ANTHEM), according to the plat recorded in Book 624 of Maps, page 26, Office of the County Recorder, Maricopa County, Arizona.

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