

RECORDING REQUESTED  
BY AND WHEN RECORDED  
MAIL TO:

Housing Manager  
City of Sedona  
102 Roadrunner Drive  
Sedona, AZ, 86336

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(Space Above for Recorder's Use)

**USE DEED RESTRICTION**  
**(Owner-Occupied Short-**  
**Term Rental or No**  
**Short-Term Rental)**

**APN:** \_\_\_\_\_

The City of Sedona, an Arizona municipal corporation ("City") and \_\_\_\_\_  
an \_\_\_\_\_ ("Declarant") enter into the following use deed restriction ("Deed  
Restriction") concerning the property described as APN: \_\_\_\_\_ with an address of:  
\_\_\_\_\_("Property"), as more particularly described in Exhibit A. City  
and Declarant are sometimes hereinafter each singularly referred to as "Party" and collectively  
referred to as the "Parties."

**COVENANTS AND RESTRICTIONS**

NOW, THEREFORE, for and in consideration of the Fifteen Dollars (\$15.00), in hand paid to  
Declarant by the City, the mutual promises and covenants contained herein, and other good and  
valuable consideration, the receipt and sufficiency of such consideration is mutually acknowledged,  
the Parties agree as follows:

1. **Covenant Running with the Land.** Declarant does hereby covenant and agrees to restrict,  
and does by this instrument restrict, the future use of the Property for a term of 49 years, which 49  
year term is renewed upon each and every conveyance and as set forth below, by the establishment of  
this covenant running with the land. The City shall cause to be recorded this Deed Restriction against  
the Property in the Official Records of the appropriate County.
2. **Definitions.** The following definitions shall apply to the Property and this Deed Restriction:
  - a. **City** shall include employees of City, its agents, contractors and vendors retained by  
City who are tasked with enforcing the restrictive covenants contained herein.
  - b. **Declarant** shall mean any person or entity that acquires an ownership interest in the  
Property.

- c. **Dwelling Unit** means a room or rooms, all facilities, units, dwellings (including, but not limited to a duplex, multiple, or single family) or residential structures intended for occupancy as living quarters, or any segment thereof, on the Property.
- d. **Primary Residence** shall mean the occupation and use of a residence as the legal primary residence of the Declarant, which shall be determined by the City taking into account the following circumstances:
  - i. Voter Registration in the City of Sedona (or signing an affidavit stating that the applicant is not registered to vote in any other jurisdiction);
  - ii. Stated address on Arizona Driver's License or Arizona Identification Card;
  - iii. Stated address on motor vehicle registration;
  - iv. Stated residence for income and tax purposes;
  - v. Such other circumstances as well as such processes for verification and investigation deemed appropriate by the City in determining the applicant is continuously occupying and using the residence as a primary residence.
  - vi. The Declarant must be a natural person with only one primary residence.
- e. **Short-Term Rental** shall mean the rental, lease, sublease, exchange, use, or sale of the Property, or any portion thereof, for a period of time that is fewer than thirty (30) days.

3. **Restrictive Covenants; Use of the Property; Violations.**

- a. **Restrictive Covenants.** The following restrictive covenants shall apply to the Property (as selected by Declarant):
  - i. ☐ **Short-Term Rental Prohibited:** Use of the Property as a Short-Term Rental is prohibited. All Dwelling Units shall be leased or rented on a non-transient basis. In no event shall any Dwelling Unit lease or rental terms (initial or any renewals) be less than 30 days. All leases or rental terms shall be in writing and signed by Declarant or Declarant's agent and the tenant.
  - ii. ☐ **Owner Occupied Short-Term Rental:** Declarant may use a portion of a Dwelling Unit as a Short-Term Rental so long as the Dwelling Unit is also concurrently occupied by the Declarant as their Primary Residence when used as a Short-Term Rental.
- b. **Notice.** Declarant acknowledges Declarant is required to notify any lender, appraiser and title company of Declarant's intent to enter into this Deed Restriction and cause such Deed Restriction to be recorded against the Property. The Declarant shall provide notice to and obtain permission from their Lender in order to record this Deed Restriction.
- c. **Deed Restriction Runs with the Land.** Declarant intends, declares and covenants, on behalf of itself and all Subsequent Declarants and operators of the Property, that during the term of this Deed Restriction, all of the covenants and agreements set forth in this Deed Restriction regulating and restricting the use and occupancy of the Property (i) shall be and are covenants running with the Property, encumbering the Property, and are binding upon all subsequent Declarants, owners, and operators of the Property, (ii) are not merely personal covenants of Declarant, and (iii) shall bind Declarant and all subsequent owners during the term of this Deed Restriction. Declarant hereby agrees that any and all requirements of the laws of the State of Arizona to be satisfied in order for the provisions of this Deed Restriction to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full, and any requirements or privities of estate or title are intended to be satisfied hereby, to ensure that these restrictions will run with the land. For the

term of this Deed Restriction, each and every contract, deed or other instrument hereinafter executed conveying the Property or any portion thereof shall expressly provide that such covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Property or any portion thereof provides that such conveyance is subject to this Deed Restriction and such conveyance renews the 49 year term of the Deed Restriction.

4. **Default by Declarant; Inspection.**

- a. Use or lease of the Property which is not allowed or is prohibited by this Deed Restriction shall constitute a default and shall be subject to the enforcement provisions and remedies contained in this Deed Restriction.
- b. City or its designee has the authority to inspect and monitor the Property, or otherwise ensure continued compliance with the terms of the Deed Restriction. If the City has reasonable cause to believe that the occupancy or use of the Property is in violation of any provision of this Deed Restriction, the City may inspect the Property between the hours of 8:00a.m. and 5:00p.m., Monday through Friday, after providing the Declarant and occupants with at least twenty-four (24) hours written notice. Notice to the occupants may be given by posting notice on the door to the Property. This Deed Restriction shall constitute permission to enter the Property during such times upon such notice without further consent. A default by Declarant shall include breach of the covenants set forth in this Deed Restriction, including without limitation any of the following:
  - i. Any ownership, use or occupancy of the Property in violation of Section 3 above.
  - ii. Any action by the Declarant to encumber the Property in a manner that conflicts with the terms of this Deed Restriction or renders compliance with the terms of this Deed Restriction impossible or impractical.

5. **Liability Waiver.** This Deed Restriction has the potential to reduce the value of the subject property. To the maximum extent permitted by law, the City of Sedona shall not be responsible nor be held liable for any direct, indirect, incidental, special, consequential or punitive damages, or any loss of any type whatsoever, if such Use Deed Restriction results in a decline in property value of the deed restricted property. Additionally, the City of Sedona shall not be responsible nor be held liable for any extended length of time required to sell, transfer or convey said property or for any other indirect or incidental factors influencing the sale/resale of the deed restricted property.

6. **No Representation by City; Right to Professional Advice.** The City of Sedona has not provided any advice or guidance to Declarant related to this Deed Restriction. Declarant acknowledges that they have the right to consult counsel and/or a real estate professional regarding this Deed Restriction and have either availed themselves of that right or waived it.

7. **Notice and Cure.** In the event a violation of this Deed Restriction is discovered, the City shall send a written Notice of Default to the Declarant detailing the nature of the default and providing thirty (30) days for the Declarant to cure such default. Notwithstanding the foregoing or any other term of this Deed Restriction, a default for lease or use of the Property as a Short-Term Rental shall be cured by the Declarant immediately. The notice shall state that the Declarant may request an appeal of the violation finding in writing within 15 days of such notice, in which event the City shall administratively review the finding and, if the violation finding is upheld, the Declarant may request in writing within 15

days of such administrative decision a hearing before the Board of Adjustment. A decision by the Board of Adjustment may only be judicially appealed in superior court per the Arizona Rules of Procedure for Special Actions.

If no administrative or City appeal is timely requested in writing and the violation is not cured within 30 days of mailing the notice of default, the Declarant shall be deemed to be in violation of this Deed Restriction. If an administrative or City appeal is requested, the decision of the City shall be final for the purpose of determining if a violation has occurred and, if such violation is not cured within 15 days of such final determination, the Declarant shall be deemed to be in violation of this Deed Restriction. If a decision of the City is judicially appealed, an order of the Court confirming the violation shall be final for the purpose of determining if a violation has occurred and, if such violation is not cured within 15 days of such final determination, the Declarant shall be deemed to be in violation of this Deed Restriction.

8. **Remedies.** In the event of violation, non-performance, default or breach of any term of this Deed Restriction by the Declarant, City shall have the right to enforce Declarant's obligations herein by an action for any equitable remedy, including injunction or specific performance, as well as pursue an action to recover damages. In addition, any amount due and owing to the City shall bear interest at the rate of 1.8% per month, compounded annually until paid in full. The City shall be entitled to recover any costs related to the enforcement of this Deed Restriction, including but not limited to, attorney's fees, court filing costs, and City recording costs. In addition to any other remedy provided by law or equity, the City may attach a lien for any amount due to City upon the Property. The Declarant expressly waives any objection to the attachment of a lien for amounts due to the City. In the event of a transfer or conveyance of the Property which violates the terms of this Deed Restriction and constitutes a violation of this Deed Restriction, both the grantor and grantee shall be jointly and severally liable for any damages and costs due under this Deed Restriction.
9. **Consensual Lien.** For the purpose of securing each Declarant's compliance with and performance of this Deed Restriction, Declarant hereby grants to the City a lien against the Property in an amount equal to the cost reasonably incurred by the City in enforcing the servitudes and burdens imposed by this Deed Restriction upon the Property in the prosecution of legal action against any Declarant or former Declarant who violates the covenants and restrictions set forth herein and against any person or entity who occupies the burdened Property in violation of this Deed Restriction. Each person or entity who accepts or claims ownership of, or a right to occupy the Property, hereby consents to the foregoing lien.
10. **Liquidated Damages.** In the event of a violation of the Deed Restriction by the Declarant, the determination of actual monetary damages would be difficult to ascertain. Therefore, the City and Declarant hereby agree that liquidated damages shall be calculated and applied in the amount of FIVE HUNDRED DOLLARS (\$500.00) per day for each day that the Declarant is in violation of this Deed Restriction and has failed to timely cure the violation. Liquidated Damages shall be in addition to the City's ability to recover costs as set forth in Section 8 above. Liquidated Damages shall be in addition to the City's right to seek equitable remedies of injunction and/or specific performance. In the event of any unauthorized lease or use of the Property or Short-Term Rental, any amounts collected or receipt of other things of value by the Declarant or assigns under such leases shall be paid to the City as liquidated damages as demanded by the City (in lieu of the \$500 daily liquidated damages), including such amounts collected or received by the Declarant prior to receipt of a Notice of Default and prior to expiration of a thirty (30) day period to cure, and such amounts shall be in addition

to the right of the City to recover costs and seek equitable remedies.

11. **No Release of Deed Restriction in Event of Tax Sale.** In the event of a tax sale, this Deed Restriction shall remain in full force and effect, shall run with and burden the land and shall constitute a condition of the subdivision and land use approval which shall survive any sale of the Property through a tax lien sale process.
12. **Declarant's Reserved Rights.** Declarant reserves to itself, and to its representatives, heirs, successors, assigns, transferees, agents, and lessees, all rights inuring from ownership of the Property not otherwise restricted or prohibited by virtue of this Deed Restriction, including, but not limited to, the right to engage in or permit others to engage in all uses of the Property that are not expressly prohibited by this Deed Restriction, and are not inconsistent with the purposes of this Deed Restriction.
13. **Successors and Assigns Bound.** Declarant hereby agrees and acknowledges that the Property shall be held, sold, conveyed, owned, and used subject to the applicable terms, conditions and obligations imposed by this Deed Restriction relating to the use of the Property, and matters incidental thereto. Such terms, conditions, and obligations are a burden and restriction on the use of the Property, as applicable.

The provisions of this Deed Restriction shall (subject to the limitations contained herein and without modifying the provisions of this Deed Restriction) be enforceable as equitable servitudes and conditions, restrictions and covenants running with the land, and shall be binding on the Declarant and upon each and all of its respective heirs, devisees, successors, and assigns, grantees, officers, directors, employees, agents, representatives, executors, trustees, successor trustees, beneficiaries, administrators, any person who claims an interest in the Property, and upon future Declarants of the Property and each of them.

14. **No Other Restrictions.** This Deed Restriction imposes no other obligations or restrictions on Declarant, and neither its successors, nor any other person or entity claiming under them, shall be in any way restricted from using the Property except as provided herein or as otherwise provided in the Sedona City Code and Land Development Code.
15. **General Provisions.**
  - a. **Controlling Law.** The interpretation and performance of this Deed Restriction shall be governed by the laws of the State of Arizona and applicable federal law.
  - b. **Jurisdiction; Venue; Waiver of Jury Trial.** The Parties to the full extent permitted by law, hereby knowingly, intentionally and voluntarily, do the following: (1) Submit to personal jurisdiction in the State of Arizona with respect to any action arising from or relating to this Deed Restriction; (2) Agree that the Superior Court of Arizona, Coconino County or Yavapai County, depending on the location of the Property, shall have exclusive jurisdiction to hear and determine all claims or disputes between the parties pertaining directly or indirectly to this Deed Restriction; (3) Waive any claim that the court in Subpart (2) is an inconvenient forum or an improper forum based on lack of venue; and (4) Acknowledge and agree that (i) any controversy which may arise under, as a result of, or in connection with this Deed Restriction would be based upon difficult or complex issues, and (ii) as a result, any lawsuit arising out of any such controversy shall be tried in a court of competent jurisdiction by a judge sitting without a jury.
  - c. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Deed Restriction shall be liberally construed to effect the purposes of this Deed Restriction. If any provision in this Deed Restriction is found to be ambiguous, an interpretation consistent with the purposes of this Deed Restriction that would render the provision valid shall be favored over any

interpretation that would render it invalid.

d. Severability. If any provision of this Deed Restriction or the application thereof is found to be invalid, the remaining provisions of this Deed Restriction or the application of such provisions other than that found to be invalid shall not be affected thereby.

e. Termination of Rights and Obligations. A party's rights and obligations under this Deed Restriction terminate upon transfer of the party's interest in the Deed Restriction or Property, except that liability for acts, omissions or breaches occurring prior to transfer shall survive transfer.

f. Captions. The captions in this Deed Restriction have been inserted solely for convenience of reference and are not a part of this Deed Restriction and shall have no effect upon its construction or interpretation.

16. **Modification**. This Deed Restriction shall not be amended, released, terminated, or removed from the Property without the prior written consent of the City.

EXECUTED as of the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

DECLARANT:

INSERT NAME OF DECLARANT

INSERT NAME OF DECLARANT

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF ARIZONA       )  
  ) ss.  
City of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_ **[ADD FULL NAME]** and \_\_\_\_\_ **[ADD FULL NAME]**, whose identity/ies was/were proven to me on the basis of satisfactory evidence to be the person who they claim to be, and acknowledged that they signed the Warranty Deed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**City of Sedona**, an Arizona municipal  
corporation

DATED: \_\_\_\_\_

By: \_\_\_\_\_

Karen Osburn  
Its: City Manager

**EXHIBIT A  
TO  
DEED RESTRICTION**

**[See attached legal description]**