

When recorded, return to:

Vintage Partners
Attn: Casey Treadwell
2502 E. Camelback Rd.
Suite 214
Phoenix, Arizona 85016

EASEMENTS AND MAINTENANCE AGREEMENT

This instrument (the “**Agreement**”) is made as of _____, 2014, by VP I-40 & COUNTY CLUB, LLC, an Arizona limited liability company (“**VP I-40**”).

RECITALS:

A. VP I-40 is the owner of that certain real property legally described on Exhibit “A” attached hereto (the “**Project**”).

B. The Project will be subdivided by the recordation of a plat in the form of Exhibit “B” attached hereto (the “**Plat**”).

C. Lots 1 through 7, inclusive, depicted on the Plat are herein referred to individually sometimes as a “**Lot**” and collectively as the “**Lots**”. Specific individual Lots are sometimes referred to herein by their numerical designations on the Plat.

D. The owner of fee title to a Lot is herein referred to as an “**Owner**”.

E. VP I-40 desires to establish and grant the easements and restrictions set forth herein.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Main Driveway.

(a) No Relocation. Upon the completion of construction of a driveway (the “**Main Driveway**”) on and over Lots 1, 3, 4, 5 and 7 in the location depicted on the Plat as “INGRESS-EGRESS, PUE & S/W ESMT”, the location of the Main Driveway will not be materially modified without the prior written consent of all Owners.

(b) Maintenance. Upon the completion of construction of the Main Driveway, the Owner of Lot 4 will thereafter maintain the Main Driveway in good condition and repair, which includes resurfacing the Main Driveway when reasonably necessary. The expenses incurred by the Owner of Lot 4 to perform such work are referred to as the “**Driveway Expenses**”. To the extent

reasonably necessary to perform such work, the Owner of Lot 4 and its agents (or any other Owner performing such work as permitted below) have the right to enter upon the portions of Lot 1, Lot 5 and Lot 7 which abut the Main Driveway, provided that, in exercising this right, the Owner of Lot 4 and its agents (or any other Owner performing such work as permitted below) will not unreasonably interfere with any business operations on Lot 1, Lot 5 or Lot 7.

(c) Expenses. Beginning on the Payment Commencement Date (as defined below) for each Lot, the Owner of the applicable Lot is responsible for its proportionate share of the Driveway Expenses, which proportionate share will be a fraction, the numerator of which is the land area of such Lot and the denominator of which will be the total land area of all Lots. Once an Owner becomes obligated to pay its proportionate share of the Driveway Expenses, the Owner will make such payments to the Owner of Lot 4 within 30 days after its receipt of each invoice therefor (which invoice must be accompanied by reasonable evidence of such expenditures). If any portion of Driveway Expenses are of such a nature that they must be capitalized under generally accepted accounting principles, then such expenses will be amortized over the useful life of the applicable improvement and only the annual amortized portion thereof (plus interest at the rate of 6% per annum) will be included in Driveway Expenses each year. For each Lot, the “**Payment Commencement Date**” will be the earlier of (a) the date on which VP I-40 conveys fee title to the Lot to a third party, or (b) the date on which VP I-40 first obtains a building permit for the construction of one or more buildings on the Lot.

2. Temporary Drainage Facilities.

(a) Separate Temporary Drainage Easement. Pursuant to a separate Declaration of Temporary Drainage Easements (“**Drainage Easement**”) being recorded concurrently with this Agreement, VP I-40 has established temporary easements for drainage channels, pipes and retention basins (collectively, the “**Drainage Facilities**”) over its land more particularly described therein (“**Unit 2**”), for the purpose of receiving surface storm water from the Project until such time as the grading and drainage improvements for Unit 2 have been completed in accordance with plans approved by the City.

(b) Maintenance. Upon the completion of construction of the Drainage Facilities and until such time as the Drainage Easement terminates according to its terms, the Owner of Lot 4 will maintain the Drainage Facilities in good condition and repair and in the manner required by the City. The expenses incurred by the Owner of Lot 4 to perform such work are referred to as the “**Drainage Facilities Expenses**”.

(c) Expenses. Beginning on the date of recordation of this Agreement, the Owner of each Lot is responsible for its proportionate share of the Drainage Facilities Expenses, which proportionate share will be a fraction, the numerator of which is the land area of such Lot and the denominator of which will be the total land area of all Lots. Each Owner will make such payments to the Owner of Lot 4 within 30 days after its receipt of each invoice therefor (which invoice must be accompanied by reasonable evidence of such expenditures). If any portion of the Drainage Facilities Expenses are of such a nature that they must be capitalized under generally accepted accounting principles, then such expenses will be amortized over the useful life of the

applicable improvement and only the annual amortized portion thereof (plus interest at the rate of 6% per annum) will be included in the Drainage Facilities Expenses each year.

3. Failure to Perform.

(a) Failure to Maintain Main Driveway. If the Owner of Lot 4 fails to maintain or repair the Main Driveway as required above for a period of 30 days after any other Owner has given the Owner of Lot 4 written notice of such failure (or fails to promptly perform a repair in the event of any emergency), then the Owner giving such notice (the “**Performing Owner**”) will have the right to perform such maintenance and repair, in which event each other Owner (an “**Invoiced Owner**”) shall, within 30 days after its receipt of an invoice therefor, reimburse the Performing Owner for the Invoiced Owner’s proportionate share of such work in the same manner as is set forth in Section 3 above.

(b) Failure to Maintain Drainage Facilities. VP I-40 is the current owner of the land on which the Drainage Facilities are located. The owner of such land from time to time is herein referred to as the “**Drainage Facilities Owner**”. If the Owner of Lot 4 fails to maintain or repair the Drainage Facilities as required above for a period of 30 days after the Drainage Facilities Owner has given the Owner of Lot 4 written notice of such failure (or fails to promptly perform a repair in the event of any emergency), then the Drainage Facilities Owner will have the right to perform such maintenance and repair, in which event each Owner (an “**Invoiced Owner**”) shall, within 30 days after its receipt of an invoice therefor, reimburse the Drainage Facilities Owner for the Invoiced Owner’s proportionate share of such work in the same manner as is set forth in Section 3 above.

4. Assessment Liens.

(a) Definitions. For purposes of this Agreement, “**Assessment Lien**” means a lien created by reason of the delinquency described in and upon recordation of a Notice of Assessment Lien, and “**Notice of Assessment Lien**” means a notice recorded by a Non-Defaulting Owner in the Official Records of Coconino County, Arizona, as permitted below, when an assessment or other sum of money payable by a Defaulting Owner pursuant to this Agreement is not paid when due.

(b) Recordation of Assessment Lien. If any sum of money payable by an Owner (a “**Defaulting Owner**”) to another Owner (a “**Non-Defaulting Owner**”) under this Agreement is not paid when due, such amount will bear interest at an annual rate equal to the lesser of 12% or the maximum rate permitted by applicable law (the “**Default Rate**”) from the date on which such payment became delinquent until such delinquent amount is paid by the Defaulting Owner. In addition, the Non-Defaulting Owner has the right to record, in the Official Records of Coconino County, Arizona, a Notice of Assessment Lien which shall set forth the then-delinquent amount owed by the Defaulting Owner (including interest at the Default Rate) and a legal description of the Lot owned by the Defaulting Owner. Upon recordation of the Notice of Assessment Lien, the then-delinquent amount owed by the Defaulting Owner, together with interest thereon at the Default Rate, will constitute an Assessment Lien on the Lot of the Defaulting Owner, as described in the Notice of Assessment Lien. If the amount secured by the

Assessment Lien is not paid in full within 15 days after the Notice of Assessment Lien has been recorded, the Non-Defaulting Owner may enforce payment of the amount due, or enforce the Assessment Lien against the Lot of the Defaulting Owner, by taking either or both of the following actions, concurrently or separately (and, by exercising either of the remedies set forth below, the Non-Defaulting Owner does not prejudice or waive its right to exercise the other remedy or such additional remedies as may be available under applicable law):

- (i) Bringing an action at law against the Defaulting Owner; and/or
- (ii) Foreclosing the Assessment Lien against the Lot of the Defaulting Owner in accordance with the then-prevailing Arizona law relating to the foreclosure of realty mortgages or deeds of trust (including the right to recover any deficiency).

(c) Liability. Each assessment or amount due under this Agreement, together with interest at the Default Rate, is the personal obligation of the Owner owing same, but such personal obligation shall not be deemed to discharge or limit the charge on the applicable Lot of any Assessment Lien encumbering such Lot, regardless of a subsequent conveyance of such Lot. Upon the conveyance of fee title to a Lot, an Owner will not be relieved of liability for payment of any amount due hereunder which became due while the Owner was the Owner of the Lot. If fee title to a Lot as to which a Notice of Assessment Lien has been recorded is conveyed, in whole or in part, such Lot will remain subject to the Assessment Lien created by reason of the delinquency described in the Notice of Assessment Lien.

(d) Privity. All Assessment Liens are and will remain superior to any and all other liens or encumbrances which hereafter in any manner may arise or be imposed on the applicable Lot; provided, however, that an Assessment Lien will be subject and subordinate to:

- (i) Liens for taxes and other public charges which by applicable law are expressly made superior; and
- (ii) Mortgages or deeds of trust recorded in the Official Records of Coconino County, Arizona, prior to the date of recordation of the Notice of Assessment Lien creating the applicable Assessment Lien.

(e) Subsequent Assessment Liens. If an Owner is delinquent in paying any amount due hereunder and, as a result thereof, a Notice of Assessment Lien is recorded as provided above, any Non-Defaulting Owner may record subsequent Notices of Assessment Liens as to any amounts owing by the Defaulting Owner which become delinquent after the recordation of the first such Notice of Assessment Lien.

(f) Release of Assessment Lien. Upon the curing of any default for which a Notice of Assessment Lien was recorded, the Non-Defaulting Owner who recorded the Assessment Lien shall with reasonable diligence record an appropriate release of the Notice of Assessment Lien upon payment of a reasonable fee by the Owner of the Lot upon which the Notice of Assessment Lien was recorded to cover the Non-Defaulting Owner's costs of

preparing and recording such release, together with the payment of such other costs, including, without limitation, reasonable attorneys' fees and costs, which the Non-Defaulting Owner may have actually incurred.

5. Access Easements. Subject to the terms and conditions hereinafter set forth, VP I-40 hereby grants and establishes, for the use and benefit of all Owners and their agents, employees, licensees, and invitees and the tenants and occupants of all Lots (collectively, “**Permittees**”), a non-exclusive perpetual easement and right-of-way for ingress and egress for vehicular and pedestrian traffic over and across all driveways (including the Main Driveway) and sidewalks now or hereafter located on the Lots from time to time. Notwithstanding the foregoing, (a) no Owner is obligated to construct any driveways or sidewalks on its Lot, (b) no Owner is required to obtain the approval of any other Owner with respect to the initial design or location of any driveways or sidewalks on its Lot (provided that the Main Driveway must be located in the location specified above), and (c) upon the completion of construction of any driveway or sidewalk on a Lot, the Owner of such Lot has the right, from time to time, to alter, relocate or remove any driveway or sidewalk on its Lot (provided that the Main Driveway is subject to the restriction on relocation as set forth above).

6. Arterial Driveways. Each Owner has the right, at its sole cost, to connect the arterial driveways on its Lot to the Main Driveway. To the extent reasonably necessary to perform such work, the Owner performing such work and its agents have the right to enter upon the Main Driveway and to modify the Main Driveway at the applicable connection points to allow the arterial driveways to connect to the Main Driveway, provided that, in exercising this right, the Owner performing such work and its agents will not unreasonably interfere with the use of the Main Driveway by the Permittees.

7. Drainage Easements.

(a) Surface Drainage. VP I-40 hereby grants and establishes, for the benefit of each Lot, a non-exclusive perpetual easement for the discharge of surface storm water from such Lot over and across the surface of all other Lots, which easements must be used in manner consistent with the drainage easements and requirements set forth in (or referenced in) the Plat.

(b) Underground System. VP I-40 hereby grants and establishes, for the benefit of each Lot, a non-exclusive perpetual easement for the flow of surface storm water from such Lot into the underground drainage system benefitting such Lot, which easements must be used in manner consistent with the drainage easements and requirements set forth in (or referenced in) the Plat.

8. Parking Easement. VP I-40 anticipates that a hotel will be constructed on Lot 3. Upon the approval by the City and VP I-40 of a site plan for the construction of a hotel on Lot 3, VP I-40 will grant and establish, for the use and benefit of Lot 3, a non-exclusive easement for vehicular parking on and over the northernmost portion of Lot 1, which easement will be established by VP I-40 by recordation of an amendment to this Agreement.

9. No Barriers. Upon the completion of construction of the Main Driveway, the Owner of Lot 4 will not construct or maintain, or permit to be constructed or maintained, any barrier, curb,

fence or other temporary or permanent structure or improvement on or within the Main Driveway that would eliminate or materially adversely effect the ingress and egress of vehicular traffic over and across the Main Driveway.

10. Construction Easement. VP I-40 hereby grants and establishes, for the use and benefit of all Owners and their Permittees, a non-exclusive construction easement over any Lot (the “**Benefitted Lot**”) that shares a common boundary with an Owner’s Lot (the “**Burdened Lot**”) for the sole purpose of constructing, maintaining, repairing, or reconstructing any improvements on the Benefitted Lot that cannot be readily constructed, maintained, repaired or reconstructed without access to the Burdened Lot, subject to the written approval of the Owner of the Burdened Lot as to the nature, extent and duration of any proposed use of the easement, which approval may not be unreasonably withheld, conditioned or delayed.

11. Notices. Notices given by any Owner under this Agreement may be given to any other Owner at the recipient’s business address. If an Owner is unable to locate a business address of any other Owner, then the notice may be sent to the address of the recipient which is on file with the applicable governmental entity responsible for sending statements of real property taxes.

12. No Public Dedication. The provisions of this Agreement will not constitute nor be construed as a dedication for public use, and the rights and easements granted herein are private and solely for the benefit of the Permittees.

13. Enforcement. Each of the easements, covenants and restrictions in this Agreement will be enforceable by the Owners by injunction, specific performance or by any other appropriate course of action. If any Owner commences an action to enforce any of the terms of this Agreement, the prevailing Owner will be entitled to recover the reasonable attorneys’ fees and expenses incurred in connection therewith. No person or entity other than the Owners will have any right to enforce the provisions of this Agreement or bring any action under this Agreement.

14. Exhibits. The Exhibits attached to this Agreement are incorporated herein by this reference.

15. Captions. Captions and paragraph headings used in this Agreement are for convenience of reference only, will not be deemed to define, limit or alter any provision of this Agreement, and will not be deemed relevant in construing this Agreement.

16. Amendment. This Agreement may be amended by, and only by, a written agreement executed by the Owners which, collectively, own fee title to 50% or more of the land area of the Project, which amendment will be effective only when recorded in the Official Records of Coconino County, Arizona. If any such amendment would materially adversely affect the rights of an Owner, then such amendment will not be recorded unless such Owner has also given its written consent to such amendment. If any amendment would alter the location of the Main Driveway, then such amendment will not be recorded unless all Owners have given their written consent to such amendment. No consent to the amendment of this Agreement will ever be required of any person or entity other than as specified in this paragraph. Any amendments or modifications hereof, whenever made, will have the same priority as this Agreement as if such amendment or

modification had been executed concurrently herewith. Notwithstanding the foregoing, upon the recordation of the Plat, VP I-40 has the right to record an amendment to the Agreement (or an amended and restated version of this Agreement) which references the recording information for the Plat and more specifically describes the Lots by reference to the recorded Plat.

17. Binding Effect. This Agreement inures to the benefit of and is binding on the parties hereto and their respective heirs, legal representatives, successors (including successors-in-title to all or any portion of the Lots) and assigns, will be appurtenant to the Lots, and will run with the land.

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the date set forth above.

[Signature Page Follows]

VP I-40:

VP I-40 & COUNTRY CLUB, LLC, an Arizona limited liability company

By: Vintage Partners, LLC, an Arizona limited liability company
Its: Manager

By: Edward & Company, LLC, an Arizona limited liability company
Its: Administrative Member

By: _____
Mark E. Ortman Jr.
Its: Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Mark E. Ortman Jr., the Manager of Edward & Company, LLC, an Arizona limited liability company, on behalf of the company as the Administrative Member of Vintage Partners, LLC, an Arizona limited liability company, on behalf of the company as Manager of VP I-40 & COUNTRY CLUB, LLC, an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

EXHIBIT "A"

LEGAL DESCRIPTION OF PROJECT

EXHIBIT "B"

PLAT