

When Recorded Mail To:  
Rose Law Group, pc  
7144 E. Stetson Drive, Suite 300  
Scottsdale, Arizona 85251

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### DEED RESTRICTION

Under the terms stated herein, BH Nauri Valley, LLC, Delaware limited liability company (“**Owner**”) as Owner of that certain real property known as Maricopa County Assessor’s Parcel No. \_\_\_\_\_, more specifically and legally described in **Exhibit A** attached hereto (the “**Property**”)—hereby covenants and agrees as follows:

Owner covenants and agrees to maintain, at the Owner’s sole cost and expense, that portion of the private roadway commonly known as Nauri Valley Drive located immediately adjacent to the Property (the “**Roadway**”) in compliance with the Town’s requirements for private roads as contained in 1103.2(B)(3)(c), as may be amended from time to time (the “**Maintenance Requirements**”).

Owner further agrees that that this covenant shall run with and be binding on the title of the Property and shall be binding on the heirs, assigns, successors in interest, purchasers, and any and all subsequent holders or owners of the Property.

This Deed Restriction shall be declared null and void and shall be automatically terminated upon the earlier of the following events to occur: (1) the creation of a home owners’ association that assumes the responsibility for maintenance of the Roadway in accordance with the Maintenance Requirements; or (2) the Roadway becomes a public road.

[SIGNATURES ON FOLLOWING PAGE]

DATED: \_\_\_\_\_, 2016.

OWNER:

BH Nauni Valley, LLC  
a Delaware limited liability company

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

Name: Darryl Berger

Its: Manager

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me, this \_\_ day of \_\_\_\_\_, 2016,  
by Darryl Berger, Manager of BH Nauni Valley, LLC, a Delaware limited liability company.

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

My Commission Expires:  
\_\_\_\_\_

**EXHIBIT A  
LEGAL DESCRIPTION**

**PARCEL NO. 1**

**LOT TWELVE (12), NAUNI VALLEY RANCH, ACCORDING TO THE PLAT OF RECORD  
IN THE OFFICE OF THE MARICOPA COUNTY RECORDER IN BOOK 44 OF MAPS,  
PAGE 9.**

**PARCEL NO. 2**

**TRACT D, NAUNI VALLEY RANCH, A SUBDIVISION RECORDED IN BOOK 44 OF  
MAPS, PAGE 9, RECORDS OF MARICOPA COUNTY, ARIZONA.**

When Recorded Mail To:

## ROADWAY MAINTENANCE AGREEMENT

This Roadway Maintenance Agreement (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016 between Town of Paradise Valley (the "Town"), a political subdivision of the State of Arizona, and BH Nauni Valley, LLC, a Delaware limited liability company ("Owner").

### RECITALS:

- A. Arizona Revised Statutes §9-500.05 authorizes the Town to enter into a Development Agreement with a landowner or any other person having an interest in real property located in the Town.
- B. Owner owns real property within the Town of Paradise Valley located at 6001 N. Nauni Valley Drive, and more particularly described in **Exhibit A** (the "Property").
- C. On December 29, 2015, Owner submitted an Application for Conditional Use Permit for a Private Road (the "Application") over the portion of Nauni Valley Drive located immediately adjacent to the Property (the "Roadway").
- D. On February 10, 2016, the Town requested that Owner, as a condition to approval of the Application, prepare an agreement allowing the Town to maintain the Roadway described in **Exhibit B** should it become necessary.
- E. Owner desires to improve the Roadway as a private road meeting the Town's requirements in order to provide improved access to the two lots proposed to be created in conjunction with the Application and to all lots that access from Nauni Valley Drive.
- F. Owner and Town desire to enter into this Agreement to define Owner's responsibilities for the maintenance of the Roadway as required by the Town, and the rights of the Town to maintain the Roadway if Owner fails to perform such maintenance.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. The above Recitals are incorporated into this Agreement as if set forth in their entirety below.

2. Owner agrees to maintain, at the Owner's sole cost and expense, the Roadway, in compliance with the Town's requirements for private roads as contained in Section 1103.2(B)(3)(c), as may be amended from time to time (the "Maintenance Requirements").
3. If Owner fails to comply with the Maintenance Requirements, the Town shall be authorized to maintain the Roadway, at Owner's expense, and shall be granted all licenses and access necessary to perform such maintenance.
4. Every provision of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto and shall run with the Property.
5. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Town may cancel this Agreement for conflict of interest without penalty or further obligations as provided by A.R.S. §38-511.
6. All notices, demands, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be in writing and shall be deemed to have been validly given, filed, made, transmitted or served, when delivered personally or deposited in a U.S. Mail box, in a postage prepaid envelope, or sent by recognized overnight carrier for next business day delivery to the addresses provided herein below or such other addresses as any party hereto may from time to time designate in writing and deliver in a like manner.

Town: Town of Paradise Valley  
Senior Planner  
6401 E. Lincoln Drive  
Paradise Valley, AZ 85253

Owner: BH Nauni Valley, LLC  
7001 N. Scottsdale Road, #2055  
Scottsdale, AZ 85253

7. Notwithstanding A.R.S. §12-408, venue for any suit or action arising under this Agreement shall be commenced and remain in the Superior Court of the State of Arizona in and for the County of Maricopa, Arizona, but only after exhausting all possible administrative remedies. The parties hereby waive all provisions of law providing for a change of venue in such proceeding to any other county.
8. The parts, terms and provisions of this Agreement shall be deemed severable and should any term, part or provision of this Agreement be declared or be determined by a Court to be illegal or invalid, the validity of the remaining parts, terms or provision shall not be affected thereby, and said illegal or invalid part, term or provisions shall not be deemed a part of this Agreement, notwithstanding any other provision of this Agreement to the contrary.

9. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements and understandings, inducements and conditions, express or implied, oral or written, except as herein contained, and no statement, promise or inducement made by either party or the agent of either party, that is not contained in this written Agreement shall be valid or binding. All the amendments and modifications to this Agreement shall be in writing and signed by both parties to this Agreement.
10. Assignment. This Agreement may be assigned by Owner to any successor in interest to the Property (or any portion thereof) without the consent of Town, provided that Owner provides the Town with written notice of such assignment and the identity of the assignee within fifteen (15) days of such assignment.
11. Recordation of Agreement. This Agreement shall be recorded in the Maricopa County Recorder's Office within ten days after its approval and execution by the Town.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

Town of Paradise Valley, a political subdivision of the State of Arizona.

By: \_\_\_\_\_  
Senior Planner, Town of Paradise Valley

ATTEST:

\_\_\_\_\_  
Clerk of the Board

BH Nauni Valley, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: Darryl Berger  
Its: Manager

STATE OF ARIZONA                    )  
  )ss.  
County of MARICOPA                 )

The foregoing instrument was acknowledged before me, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by Darryl Berger, Manager of BH Nauni Valley, LLC, a Delaware limited liability company, who being authorized to do so, executed the foregoing instrument on behalf of said entity for the purposes stated therein.

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

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

PARCEL NO. 1

LOT TWELVE (12), NAUNI VALLEY RANCH, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE MARICOPA COUNTY RECORDER IN BOOK 44 OF MAPS, PAGE 9.

PARCEL NO. 2

TRACT D, NAUNI VALLEY RANCH, A SUBDIVISION RECORDED IN BOOK 44 OF MAPS, PAGE 9, RECORDS OF MARICOPA COUNTY, ARIZONA.

**EXHIBIT B**  
**LEGAL DESCRIPTION OF ROADWAY**

**ROADWAY LEGAL DESCRIPTION**

**NAUNI VALLEY DRIVE ADJACENT TO LOT 12, NAUNI VALLEY RANCH**

THAT PORTION OF NAUNI VALLEY RANCH, AS RECORDED IN BOOK 44 OF MAPS, PAGE 9, RECORDS OF MARICOPA COUNTY, ARIZONA, LYING IN THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 2 NORTH, RANGE 4 EAST OF THE GILA AND SALTER RIVER, BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF TRACT D, OF SAID NAUNI VALLEY RANCH;

THENCE NORTH 89°46'20" WEST (BASIS OF BEARINGS) PARALLEL WITH AND 33.00 FEET NORTH OF THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 9, A DISTANCE OF 50.00 FEET TO THE WEST RIGHT-OF- WAY LINE OF NAUNI VALLEY RANCH DRIVE;

THENCE NORTH 00°15'00" EAST ALONG SAID WEST LINE, 115.18 FEET TO THE BEGINNING OF A 400.90 FOOT RADIUS NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST, A RADIAL TO SAID BEGINNING BEARS NORTH 89° 41'16" WEST;

THENCE NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°56'15" AN ARC DISTANCE OF 629.30 FEET;

THENCE NON-TANGENT TO SAID CURVE, SOUTH 00 ° 15'00" WEST A DISTANCE OF 50.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 12, AND THE BEGINNING OF A 350.90 FOOT RADIUS NON-TANGENT CURVE, CONCAVE TO THE SOUTHEAST, A RADIAL TO SAID BEGINNING BEARS NORTH 00 °14'59" EAST;

THENCE SOUTHWESTERLY ALONG THE EAST RIGHT-OF-WAY LINE OF SAID NAUNI VALLEY RANCH DRIVE, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 89° 55'59" AN ARC DISTANCE OF 550.78 FEET;

THENCE NON-TANGENT TO SAID CURVE, SOUTH 00 ° 15'00" WEST A DISTANCE OF 115.13 FEET TO THE POINT OF BEGINNING.