

**WAIVER OF RIGHTS AND REMEDIES
UNDER A.R.S. § 12-1134**

This agreement regarding Waiver of Rights and Remedies under A.R.S. § 12-1134 (this "Agreement") is made on May 18, 2023 between PV Scottsdale Hotel Owner SPE, LLC., a Delaware limited liability company (the "Andaz Resort"), and PV Hotel Venture SPE, LLC., a Delaware limited liability company (Owner of 6041 N Quail Run Rd), (collectively, the "Owner"), and the TOWN OF PARADISE VALLEY, an Arizona municipal corporation (the "Town"), regarding the properties located in the Town at 6160 N Scottsdale Rd and 6041 N Quail Run Rd (the "Property"), which is more particularly described as:

Andaz Resort. 6160 N. Scottsdale Road. Assessor's Parcel Number 174-65-071.

LEGAL DESCRIPTION PER SPECIAL WARRANTY DEED DOC. 2015-0763490 M.C.R.

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 10, BEING MARKED BY A BRASS CAP IN HAND HOLE, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 10, BEING MARKED BY A BRASS CAP IN HAND HOLE, BEARS NORTH 01 DEGREE JJ MINUTES JS SECONDS EAST, 2657.93 FEET, THENCE SOUTH 88 DEGREES 39 MINUTES 52 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 10, 656.63 FEET TO THE EAST LINE OF THE WEST HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 10; THENCE DEPARTING SAID SOUTH LINE, NORTH 01 DEGREE 14 MINUTES 57 SECONDS EAST, 332.11 FEET TO THE POINT OF BEGINNING.

THENCE SOUTH 88 DEGREES 39 MINUTES 37 SECONDS WEST, 329.22 FEET, THENCE NORTH 01 DEGREE 05 MINUTES 36 SECONDS EAST, 664.09 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 10;

THENCE SOUTH 88 DEGREES 39 MINUTES 07 SECONDS WEST ALONG SAID NORTH LINE

THENCE NORTH 88 DEGREES 38 MINUTES 16 SECONDS EAST, 643.38 FEET TO SAID EAST LINE; ·
THENCE ALONG SAID EAST LINE, SOUTH 01 DEGREE 14 MINUTES 57 SECONDS WEST, 1162.01 FEET; ·
THENCE DEPARTING SAID EAST LINE, NORTH 88 DEGREES 39 MINUTES 14 SECONDS EAST, 151.49 FEET; ·
THENCE SOUTH 01 DEGREE 21 MINUTES 52 SECONDS EAST, 79.44 FEET TO THE BEGINNING OF A TANGENT CURVE,
CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 76500 FEET; ·
THENCE ALONG SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 30 DEGREES DJ MINUTES 03 SECONDS, AN
ARC LENGTH OF 86.54 FEET; ·
THENCE SOUTH 88 DEGREES 41 MINUTES 57 SECONDS WEST, 181.03 FEET TO SAID EAST LINE;
THENCE ALONG SAID EAST LINE, SOUTH 01 DEGREE 14 MINUTES 57 SECONDS WEST, 502.49 FEET TO THE POINT OF BEGINNING.
TOGETHER WITH:
THE RIGHTS IN AND TO AREAS ".4" AND "[" AS DESCRIBED IN THAT CERTAIN EASEMENT AND MAINTENANCE AGREEMENT AS SET FORTH IN INSTRUMENT RECORDED AUGUST 18, 1978 IN DOCKET 13098, PAGE 1464.
FURTHER TOGETHER WITH:
NON-EXCLUSIVE EASEMENTS FOR EMERGENCY VEHICULAR AND PEDESTRIAN ACCESS, LANDSCAPE AND MAINTENANCE AS SET FORTH IN RECIPROCAL EASEMENT AGREEMENT RECORDED NOVEMBER 13, 1989 IN 89- -522082, OF OFFICIAL RECORDS.

*SURVEYOR'S LEGAL DESCRIPTION FROM ANDAZ SCOTTSDALE LOT COMBINATION
PLAT MAP MCR BK 1500 PG 26*

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 10, TOWNSHIP 2 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 70, BEING MARKED BY A BRASS CAP IN HAND HOLE, FROM WHICH THE EAST QUARTER CORNER OF SAID SECTION 10, BEING MARKED BY A BRASS CAP IN HAND HOLE, BEARS NORTH
01 DEGREE JJ MINUTES 38 SECONDS EAST, 2657.93 FEET; ·
THENCE SOUTH 88 DEGREES 39 MINUTES 52 SECONDS WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 10, 656.63 FEET TO TH[EAST LINE OF THE WEST HALF OF TH[EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 10;
THENCE DEPARTING SA

SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION

10;

THENCE SOUTH 88 DEGREES 39 MINUTES 07 SECONDS WEST, ALONG SAID NORTH LINE, 311.01 FEET TO A LINE 20 FEET

EAST OF AND PARALLEL WITH THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 10;

THENCE ALONG SAID PARALLEL LINE, NORTH 00 DEGREES 56 MINUTES 15 SECONDS EAST, 331.18 FEET;

THENCE DEPARTING SAID PARALLEL LINE, SOUTH 89 DEGREES 03 MINUTES 45 SECONDS EAST, 5.00 FEET TO A LINE

25.00 FEET EAST OF AND PARALLEL WITH SAID WEST LINE;

THENCE ALONG SAID PARALLEL LINE, NORTH 00 DEGREES 56 MINUTES 15 SECONDS EAST, 830.96 FEET;

THENCE NORTH 88 DEGREES 39 MINUTES 16 SECONDS EAST, 643.38 FEET TO SAID EAST LINE;

THENCE ALONG SAID EAST LINE, SOUTH 01 DEGREE 14 MINUTES 57 SECONDS WEST, 1826.59 FEET TO THE POINT OF BEGINNING.

6041 N. Quail Run Road. Assessor's Parcel Number 174-65-004C.

From Sheet 1 of 1, ALTA/ACSM Land Title Survey, prepared by Hubbard Engineering and dated May 18, 2022:

LEGAL DESCRIPTION PER TITLE COMMITMENT NO. 22000864-040-DO

PARCEL NO. 1:

square feet under roof) with private pools, a new one-story service building, and new perimeter walls to now be allowed do not diminish the value of the Property.

By signing this Agreement, the Owner acknowledges that the Owner waives any right to claim diminution in value or claim for just compensation for diminution in value with regard to the Property under A.R.S. § 12-1134 related to the zoning classification and Minor Amendment to the existing Special Use Permit to be granted upon the approval of Special Use Permit # SUP-22-01 and Rezoning # MI-22-01 by the Town of Paradise Valley Town Council.

This Agreement, any exhibits attached hereto, and any addendum, constitute the entire understanding and agreement of the Owner and the Town and shall supersede all prior agreements or understandings between the Owner and the Town only with respect to Special Use Permit # SUP-22-01 and Rezoning # MI-22-01. This Agreement may not be modified or amended except by written agreement by the Owner and the Town.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona.

Within ten days after the execution of this Agreement, the Town Clerk shall file this Agreement in the Official Records of the County Recorder's Office, Maricopa County, Arizona.

This Agreement runs with the land and is binding upon all present and future owners of the Property.

This Agreement is subject to the cancellation provisions of A.R.S. § 38-511.

The Owner warrants and represents that Andaz Resort is the owner of fee title to the Property.

Dated this 18th day of May, 2023.

[SIGNATURES ON FOLLOWING PAGES]

"OWNER"

PV Scottsdale Hotel Owner SPE, LLC., a Delaware limited liability company (the "Andaz Resort")

By: Gary A. Stougaard

Name: Gary A. Stougaard

Title: Authorized Signatory

and

PV Hotel Venture SPE, LLC., a Delaware limited liability company (Owner of 6041 N Quail Run Rd),

By: Gary A. Stougaard

Name: Gary A. Stougaard

Title: Authorized Signatory

State of Arizona)

) ss

County of Maricopa)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2023
by _____, the _____ of Andaz Resort for and
on behalf thereof.

My commission expires:

Notary Public

"TOWN"

TOWN OF PARADISE VALLEY,
an Arizona municipal corporation

Jill B. Keimach, Town Manager

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew McGuire, Town Attorney

EXHIBIT A

The Conditions of Approval for the Intermediate Amendment to the Special Use Permit for Andaz Resort # SUP-20-02 and Rezoning of 6041 N Quail Run Road # MI-22-01 are as follows:

New Stipulations for the proposed site improvements [in summary - incorporate and develop a vacant 5-acre residential property (6041 N Quail Run Road/Maricopa County Assessor Parcel Number 174-65-004C) into the Andaz Resort (6160 N Scottsdale Road/Maricopa County Assessor Parcel Number 174-65-071). Proposed development on the 5-acre site consists of 10 one-story guest units (approximately 2,853 square feet to 5,410 square feet under roof) with private pools, a new one-story service building, and new perimeter walls]:

1. All improvements to the Property shall be in substantial compliance with the Narrative, Plans, and Documents:
 - a. Andaz Scottsdale Resort & Bungalows – Proposed Villa Expansion Landscape and Hardscape Design and Materials Response Letter, prepared by Gary Stougaard and dated May 15, 2023.
 - b. Andaz Scottsdale Resort & Bungalows – Proposed Villa Expansion Response Letter prepared by Gary Stougaard and dated May 3, 2023.
 - c. The Narrative, pages 1 -4, prepared by Gary Stougaard and dated October 24 2022.
 - d. Andaz Scottsdale Resort & Bungalows Proposed Villa Addition / Total Combined Resort Structure and Other Covered Areas – Summary, prepared by Gary Stougaard and dated April 13, 2023.
 - e. Andaz Scottsdale Resort & Bungalows Development Square Footage Summary, prepared by Gary Stougaard and dated September 7, 2015.
 - f. Andaz Scottsdale Resort & Bungalows Proposed Villa Expansion Parking

Summary, prepared by Gary Stougaard and dated August 4, 2022.

- g. Title Sheet, prepared by Howard Anderson Architecture and dated July 27, 2022. Overall Site Plan, prepared by Burton Landscape Architecture Studio and dated May 15, 2023.
- h. Conceptual Site Plan, prepared by Burton Landscape Architecture Studio and dated May 15, 2023.
- i. Two Bedroom Villa Plan, prepared by Howard Anderson Architecture (no date listed).
- j. Three Bedroom Villa Plan, prepared by Howard Anderson Architecture (no date listed).
- k. Four Bedroom Villa Plan, prepared by Howard Anderson Architecture (no date listed).
- l. Service Building Plan, prepared by Howard Anderson Architecture (no revised date listed).
- m. Site Walls & Fences Plan, prepared by Howard Anderson Architecture and dated May 15, 2023.
- n. Site Lighting Plan dated December 13, 2022.
- o. Andaz Resort Expansion Lighting Calculation Sheet, dated August 16, 2022, Pages 1 – 3.
- p. Conceptual Landscape Plan, prepared by Burton Landscape Architecture Studio and dated May 15, 2023.
- q. Conceptual Landscape Legend, prepared by Burton Landscape Architecture Studio and dated May 15, 2023.
- r. Conceptual Planting Plan, prepared Burton Landscape Architecture Studio and dated May 15, 2023.
- s. Conceptual Planting Legend – Quail Run Rd, prepared by Burton Landscape Architecture Studio and dated May 15, 2023.
- t. Landscape Planting Plan, Sheet LP-1.01, prepared by Burton Landscape Architecture Studio and dated November 29, 2022.
- u. Landscape Planting Plan, Sheet LP-1.02, prepared by Burton Landscape Architecture Studio and dated November 29, 2022.
- v. Landscape Planting Plan, Sheet LP-1.03, prepared by Burton Landscape Architecture Studio and dated November 29, 2022.
- w. Existing Site Photos Representing Proposed Landscaping, prepared by Burton Landscape Architecture Studio and dated October 25 2022.
- x. Conceptual DRD/DRN Plan, Sheet C301, prepared by Hubbard Engineering and dated May 15, 2023.
- y. Conceptual Site Cross Section, Sheet C302, prepared by Hubbard Engineering and dated May 15, 2023.
- z. Conceptual Site Cross Section, Sheet C302A, prepared by Hubbard Engineering and dated May 15, 2023.
- aa. Conceptual Utility Plan, Sheet C401, prepared by Hubbard Engineering and dated May 15, 2023.

- bb. Typical Street Cross Section, Andaz Resort Expansion, dated October 25, 2022.
 - cc. ALTA/ACSM Land Title Survey, Sheet 1 of 1, prepare by Hubbard Engineering and dated May 18, 2022.
 - dd. Andaz Sign Package, prepared by Airpark Signs & Graphics:
 - 1. Exterior Room ID 060116, dated June 1, 2016
 - 2. Restroom and Stair ID 052616, dated May 26, 2016.
 - 3. Suite Signage 050416, updated June 7, 2016
 - 4. Suite Signage 050416, dated May 4, 2016.
 - 5. Suite Signage 050416, dated June 6, 2016.
 - 6. Address Numbers 071416, dated September 1, 2016.
 - 7. Pedestrian Monument, updated September 1, 2016.
 - 8. Pool Rules 060116, dated June 1, 2016.
 - 9. Pool Depth Markers 120616, dated December 6, 2016.
 - 10. Regulatory Fire Signs 120316, dated December 30, 2016.
 - ee. Andaz Scottsdale Resort and Bungalows Expansion– Noise Impact Study, pages 1 – 17, prepared by MD Acoustics and dated August 3, 2022.
 - ff. Andaz Scottsdale Resort and Bungalows Expansion– Noise Impact Study Addendum – Town of Paradise Valley, AZ, page 1, prepared by MD Acoustics and dated December 5, 2022.
 - gg. Andaz Scottsdale Resort and Bungalows Expansion– Noise Impact Study Addendum – Town of Paradise Valley, AZ, pages 1 - 25, prepared by MD Acoustics, and dated March 17, 2023.
 - hh. Andaz Scottsdale Resort and Bungalows Trip Generation Comparison – FIRST REVISION, pages 1-14, prepared by EPS Group and dated July 15, 2022.
 - ii. Andaz Resort Expansion Water System Analysis Report, pages 1 – 3, prepared by Hubbard Engineering and dated May 18, 2022. Andaz Resort Expansion Sewer System Analysis Report, pages 1 – 4, prepared by Hubbard Engineering and dated May 17, 2022.
 - jj. Andaz Resort Expansion Conceptual Drainage Memo, pages 1 – 7, prepared by Hubbard Engineering and dated May 18, 2022.
- 2. In the event of a conflict between these Stipulations and the Approved Plans, these Stipulations shall govern.
 - 3. The ten guest units shall be owned and managed by the resort. Each of these guest units shall only be used and designed as one resort key, shall not have lock-offs, and cannot be sold as private residences.
 - 4. The ten guest units and service building shall have no amplified outdoor music and no public announcement (PA) system. Noise must at all times adhere to the Town Code.

5. The new pools/hot tubs cannot be used between 10:00 pm – 7:00 am. A small sign shall be placed near the pool/hot tub identifying these hours of non-use.
6. All mechanical equipment (including pool/spa equipment) must be ground mounted and screened with a wall. The wall shall be the minimum height and length needed to screen the equipment and shall not exceed a height of 6 feet tall. All mechanical equipment, along with any screens used for attenuation of noise, shall comply with the allowable noise levels as defined in the Town's noise ordinance as it exists as of the approval date. Noise measurement shall include any installed screening or other attenuation devices.
7. The landscaping placed between the perimeter fence wall and asphalt on Quail Run Road shall be maintained. Overgrown vegetation and trees shall be cut back so they do not obstruct Quail Run Road and any dead trees or dead vegetation shall be replaced with a same type of tree/plant (or similar type if the equivalent is not available).
8. The landscaping shall be in substantial compliance with the approved landscape plans prepared by Burton Landscape Architecture Studio.
9. All landscaped areas shall be supported by an automatic irrigation system and shall be designed and maintained in a manner that promotes water conservation and prevents water overflow or seepage into the street, sidewalk, or parking areas.
10. No construction permit shall be issued for the Property until appropriate engineering or architectural plans and documents are submitted to the Town and the issuance of such construction permit(s) for that particular activity is approved by the Town. Submitted plans shall be required to meet the building code most recently adopted by the Town.
11. These improvements shall be constructed in the following phases:
 - a. Phase 1 – infrastructure.
 - b. Phase 2 – perimeter fence walls.
 - c. Phase 3 – guest units, service building, landscaping, hardscape, etc.
12. The Owner shall submit a construction schedule prior to the issuance of the first building permit related to SUP-22-02 to ensure compliance with all Town ordinances and in order to minimize construction nuisances. This schedule may be modified or amended from time to time. This construction schedule shall at a minimum provide the following:

- a. Dust and noise control measures.
- b. Vehicle/equipment storage/parking.
- c. Construction days/hours.
- d. Location of staging area for construction supplies/equipment.
- e. Location of any construction trailer and sanitary facility.
- f. Location of on-site construction-materials/debris storage.
- g. Location of fire lanes during the construction period.
- h. The approximate beginning and ending for construction.

13. Prior to the issuance of a certificate of completion/occupancy for any individual structure, adequate and appropriate fire service, including but not limited to, a fire sprinkler system, building risers, fire alarms, exit signage, room and building identification signage have been installed and inspected by the Town and the necessary fire, emergency, and other vehicle access for each such structure, has been constructed and approved by the Town.
14. During the period of demolition or construction of new improvements, signs shall be posted on the Property in conformance with the Town construction sign regulations that identify a person(s) with phone and email to contact regarding construction-related matters.
15. Chain link fencing with screening is required to completely surround any exterior construction areas, any construction refuse areas, any construction material storage areas and any exterior sanitation facilities used during a construction project. The screening material may not be used for advertising or other signage. Once installed and approved for SUP and code compliance, the exterior perimeter fencing may take the place of the chain link fencing with screening.
16. During demolition, site grading, and the construction of onsite or offsite improvements, the Owner shall coordinate the sweeping of Quail Run Road adjacent to the Property to remove construction-related dirt and debris, as reasonably required by the Townn.
17. Temporary construction driveway locations are subject to approval by the Town Community Development Director or designee.
18. This amendment identifies the common/existing fence wall along the southern border of the resort will be raised or rebuilt in height from 6 feet tall to 8 feet tall (which includes the properties located at 7012 E. McDonald Drive, 7026 E. McDonald Drive, 7038 E. McDonald Drive and 7050 E. McDonald Drive). Documentation from these property owners authorizing the increase in the fence

wall height or rebuilding of the fence wall must be provided during the building permit application process.

19. Parcel 174-65-004C (6041 N Quail Run Road) must be combined with Parcel 174-65-071 (the Resort property) prior to the issuance of the first building permit associated with these improvements.
20. Except as may be allowable during construction, all parking on Quail Run Road north of McDonald Drive and south of Lincoln Drive by any guest, invitee, parking service provider and employees of the Resort is prohibited.
21. The Owner shall provide the Town with a signed Waiver of Claims for Diminution of Value under A.R.S. § 12-1134 (Proposition 207 Waiver) in the form provided by the Town Attorney prior to Town Council approval of this Application, with said form recorded prior to or on the effective date of this ordinance.
22. The Owner shall widen Quail Run Road adjoining the 5-acre parcel with an additional three (3) feet to four (4) feet of asphalt and two (2) feet of ribbon curb in the dedicated portion of right-of-way for a total of eighteen (18) feet of asphalt and two (2) feet of ribbon curb on the east side of the road.
23. There shall be no walking paths developed in the southern retention area.
24. The existing north-south wall between the resort and the five (5)-acre parcel shall connect with the southern portion of the restroom of the proposed service building and the bar of the service building shall only be used for activities and functions associated with the event lawn and shall not be used past 10:00 p.m.
25. An exterior noise monitoring system must be placed at the perimeter fence walls adjoining the 10 new guest units and the existing event lawn. The type and distribution of the noise monitoring system must be approved by the Community Development Director or designee prior to the issuance of the first building permit. The noise monitoring system shall be installed and operational prior to the issuance of the Certificate of Occupancy for the first guest unit.
26. The proposed on-site retention improvements (e.g. retention basins) located at the south end of the property cannot be placed in the existing water line, roadway, and electric easements. The applicant must provide the Town with documentation demonstrating these easements have been abandoned or modified to ensure the on-site retention improvements will not be located in these easements prior to release of the first building permit.

27. The development agreement, prohibiting the sale of the ten (10) new guest units and adding a one-foot Vehicular Non-Access Easement, must be presented in a manner acceptable to the Town Attorney's Office. The development agreement must also be executed prior to issuance of the first building permit.
28. All existing Special Use Permit stipulations shall remain in full force and effect, unless changed or modified by the Intermediate Amendment SUP-22-01.

DRAFT