

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
SUNRIDGE**

This Declaration is adopted on the ____ day of _____, 201_, by the Members of Sunridge Homeowners Association ("Association").

RECITALS

WHEREAS, a certain Declaration of Covenants, Conditions and Restrictions was recorded on February 2, 1979, in Docket 13418, at page 493 with the Maricopa County Recorder's Office, a certain Amendment to Declaration of Covenants, Conditions and Restrictions was recorded on October 30, 1979, in Docket 13995 at page 867 with the Maricopa County Recorder's Office, a certain Amendment to Declaration of Covenants, Conditions and Restrictions was recorded on February 4, 1983, at recording number 1983-0042451 with the Maricopa County Recorder's Office (collectively "Declaration");

WHEREAS, pursuant to Article XVI of the Amendment to Declaration of Covenants, Conditions and Restrictions recorded on February 4, 1983, the Owners of at least seventy-five (75%) Lots are granted the right to amend the Declaration by signing an instrument containing the adopted amendments.

WHEREAS, the undersigned represents the Owners of at least seventy-five percent (75%) of the Lots; and

WHEREAS, the undersigned are desirous of amending said Declaration.

NOW, THEREFORE, the Declaration of Covenants, Conditions and Restrictions recorded on February 2, 1979, in Docket 13418, at page 493 with the Maricopa County Recorder's Office, a certain Amendment to Declaration of Covenants, Conditions and Restrictions recorded on October 30, 1979, in Docket 13995 at page 867 with the Maricopa County Recorder's Office, a certain Amendment to Declaration of Covenants, Conditions and Restrictions recorded on February 4, 1983, at recording number 1983-0042451 with the Maricopa County Recorder's Office be amended by deleting them in total and by substituting in their place the following Amended and Restated Declaration of Covenants, Conditions and Restrictions For Sunridge:

The undersigned Owners of a seventy-five percent (75%) of the Lots of certain real property located in Maricopa County, State of Arizona, which is legally described as follows:

Lots 1 thru 96 inclusive and Tracts "A" thru "P" inclusive, of SUNRIDGE PATIO HOMES, per map recorded in Book 207, Page 8 of Maps, in the office of the County Recorder of Maricopa County, Arizona;

hereby declare that all of the said real property shall be held, and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the

purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

Section 1. “Architectural Control Committee” shall mean the Board of Directors of the Association.

Section 2. “Architectural Control Committee Rules” shall mean the rules adopted by the Board of Directors (hereinafter called “Rules”).

Section 3. “Articles” shall mean the Articles of Incorporation, (hereinafter called “Articles”) of the Association which are filed in the Office of the Corporation Commission of the State of Arizona, and as said Articles may be amended from time to time.

Section 4. “Assessment” shall mean the Annual Assessments and Special Assessments, whether or not capitalized, defined and described in the Project Documents.”

Section 5. “Association” shall mean and refer to the Sunridge Homeowners Association, an Arizona nonprofit corporation, its successors and assigns.

Section 6. “Board” shall mean the Board of Directors of the Association.

Section 7. “Boundary Walls” shall mean the walls that surround the exterior of the Association.

Section 7. “Bylaws” shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 8. “Common Area” shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners, which consists of Tracts A through P, Book 207 of Maps, Page 8.

Section 9. “Declaration” shall mean the covenants, conditions and restrictions herein set forth in this entire document, as the same may be amended from time to time.

Section 10. “First Mortgage” shall mean a first deed of trust as well as a first mortgage.

Section 11. “Improvement” shall mean any building, Residence, fence, wall, or other structure and any landscaping.

Section 12. “Individual Patios” shall mean the area located inside the uncovered walls designated for the exclusive use of the Owner of the Lot.

Section 13. “Lot” shall mean and refer to any numbers lots as shown upon any recorded plat.

Section 14. “Member” shall mean and refer to any person or entity entitled to membership in the Association as provided in the Declaration.

Section 15. “Mortgagee” shall mean a beneficial Owner or holder of a deed of trust as well as a mortgage.

Section 16. “Owner” shall mean and refer to the record Owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any lot which is a part of the properties, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

Section 17. “Project Documents” shall mean the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sunridge, Bylaws, Articles of Incorporation, Rules and Regulations and Architectural or Design Guidelines.

Section 18. “Properties” or **“Property”** shall mean and refer to that certain real property described above, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 19. “Recreational Facilities” means the pool, tennis courts, clubhouse and other capital improvements on Association’s Common Area.

Section 20. “Residence” shall mean a building or house used as a residence for a single family, including any appurtenant garage, carport or similar accessory.

Section 21. “Single Family” shall mean a group of one or more persons who maintain a common household in a Residence.

Section 22. “Single Family Residential Use” shall mean the occupation or use of a single family residence in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

Section 23. “Street” shall mean and refer to streets, drives and places within the Association.

Section 24. “Visible From Neighboring Property” shall mean, with respect to any given object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE II PROPERTY RIGHTS

Section 1. Owner’s Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which rights shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. The right of the Association to limit the number of guests of Members;

B. The right of the Association to charge reasonable admission and other fees for the use of any Recreational Facilities situated on the Common Area;

C. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and Recreational Facilities and in aid thereof, to mortgage said property, and the rights of such mortgage in said properties shall be subordinate to the rights of the Owners hereunder;

D. The right of the Association to adopt rules and regulations to regulate use of the Common Area and Recreational Facilities and conduct upon the Lots;

E. The right of the Board to suspend the voting rights and right to use of the Common Area and Recreational Facilities by an Owner for any period during which any Assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of the Project Documents.

F. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or

transfer shall be effective unless an instrument signed by two-thirds of Members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with this Declaration, his right of enjoyment to the Common Area, applicable to its Lot and to the facilities, to the members of his family, his tenants or his guests or invitees. All parties to whom these rights are delegated shall be subject to compliance with this Declaration and all rules and regulations referred to herein as may, from time to time, be duly adopted by the Board of Directors. No such delegation shall relieve the Owner of his obligations to comply with all terms and conditions of this Declaration and with the Project Documents, nor shall such delegation relieve the Owner of responsibility for payment for all Assessments applicable to his Lot. During the term of a lease, the Owners shall have no right to use the Common Area or Recreational Facilities thereon.

Section 3. Waiver of Use. No Owner may exempt himself from personal responsibility for compliance with this Declaration or for the payment of Assessments duly levied by the Board, nor release the Lot owned by such Owner from the liens and charge hereof, by waiver of the use and enjoyment of the Common Area or Recreational Facilities thereon, or by the abandonment of his Lot, or by the delegation of his right of use of such areas and facilities.

ARTICLE III

MEMBERSHIP AND VOTING

Section 1. Membership. Every Owner of a Lot, by accepting a deed for that Lot (whether or not so expressed in the deed or conveying instrument) or otherwise becoming an Owner, is a Member of the Association, is bound by the provisions of the Project Documents, is deemed to have personally covenanted and agreed to be bound by all covenants and restrictions contained in the Project Documents, and is deemed to have entered into a contract with the Association and each other Owner for the performance of the respective covenants and restrictions. The personal covenant of each Owner described in the preceding sentence will be deemed to be in addition to the real covenants and equitable servitudes created by the Declaration, and this personal covenant of each Owner will run with title to, all Lots and Common Area covered by this Declaration. Membership in the Association will be appurtenant to and may not be

separate from ownership of any Lot that is subject to Assessment. No Owner may waive or otherwise opt out of becoming a Member in the Association for any reasoning, including but not limited to non-use of the Property.

Section 2. Voting Rights. The Association shall have one class of voting membership. All Members shall be Owners of a Lot and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine among themselves, but, in no event, shall more than one vote be cast with respect to any Lot. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted as said votes shall be deemed void.

Section 3. Suspension of Voting Rights. A Member's right to vote shall automatically be suspended, if the Member is delinquent in the payment of Assessments, monetary penalties, late fees, collection costs, attorneys' fees or costs and shall remain suspended until such time as the account is current. A Member's right to vote shall be suspended, if the Member's Lot is not in compliance with the terms of the Project Documents and shall remain suspended until such time as the Lot is in compliance.

Section 4. Other Rights, Duties and Obligations. Each Member shall have such other rights, duties and obligations, as set forth in the Articles of Incorporation and the Bylaws of the Association, as same may be amended from time to time.

Section 5. Assignment of Membership Rights. The Association membership of each Owner of a Lot shall be appurtenant to such Lot. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pleaded, conveyed or alienated in any way, except upon transfer of Ownership to the Owner's Lot, and then only to the transferee of Ownership of such Lot, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record, exercise of a power of sale under a deed of trust, or such other legal process as is not in effect or as

may hereinafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of Ownership to a Lot shall operate to transfer said membership to the new Owner thereof.

ARTICLE IV ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to Annual and Special Assessments, fees, charges for monetary penalties, late fees, costs of collections, all attorneys' fees and court costs in accordance with this Declaration. The Annual and Special Assessments, together with interest, costs, late fees, and all attorney fees, whether or not a lawsuit or other legal action is initiated, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, late fees, costs of collections, charges for monetary penalties and all attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment became due. The personal obligation for the delinquent Assessments shall not pass to his successor in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Association and for the improvement, maintenance and replacement of the Common Area and Recreational Facilities thereon, and any other purposes permitted by statutes or the Declaration, Bylaws or Articles.

Section 3. Annual Assessments—Maximum Amounts. As of January 1, 2014, the maximum annual assessment shall be \$2,406.36 for each Lot.

A. The maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of Members.

B. The maximum annual assessment may be increased above 10% only by at least a fifty-one percent (51%) vote of the Members at a meeting duly called for this purpose.

C. The Board may fix the Annual Assessment at an amount not in excess of the maximum annual assessment.

Section 4. Special Assessment for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment year, a Special Assessment, payable as determined at the sole discretion of the Board of Directors, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such Special Assessment shall have been approved by at least a fifty-one percent (51%) vote of the Members at a meeting duly called for this purpose.

Section 5. Meetings: Notice and Quorum for Action Authorized under Article IV, Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Article IV, Sections 3 and 4 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members in-person or by absentee ballots entitled to cast at least thirty-three and one-third percent (33-1/3%) of all the votes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting.

Section 6. Uniform Rate of Assessment and Late Fee. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots and shall be collected on an annual or other basis as determined in the discretion of the Board of Directors. An assessment is due on the first day of each month. The Association may impose a late fee of \$15.00, if the monthly payment is received after the 15th of the month. The Association may charge a late fee each month, if a balance exists on the Owner's account after the 15th of each month.

Section 7. Date of Commencement of Annual Assessments. The Annual Assessments shall commence on the first day of each calendar year. The Board of Directors shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period, but the failure to give such notice or the Owner's failure to receive such notice shall not affect the validity of the

Annual Assessment. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of issuance.

Section 7. Enforcement of Assessments. Any Assessment not paid within fifteen (15) days after the due date shall be deemed late and shall bear interest at the rate of ten (10%) per annum. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner or Owners against whom the same is assessed, and shall also constitute a lien and charge upon the Lot to which the Assessment relates. Each Owner, by acceptance of a deed relating to a Lot or Lots, or by acceptance of any other document of instrument conveying an ownership interest therein, whether or not it shall be so expressed in any such deed or other document or instrument, are and shall be deemed to covenant and agree to the enforcement of the Assessments in the manner herein specified. In the event the Association employs an attorney or attorneys for collection of any assessment, whether or not suit is filed, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, each Owner agrees to pay all attorney fees, collection fees and costs thereby incurred in addition to any other amounts due from the Owner. In the event of a default in payment of any such assessment when due, in which case the Assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

A. **Enforcement by Suit.** The Association may bring a suit at law against each Owner or Owners to enforce each such Assessment obligation. Each Owner agrees that any judgment rendered in any such action shall include a sum for all attorney fees incurred by the Association against the defaulting Owner, plus all court costs and necessary expenses and accounting fees incurred by the Association, plus

10% interest on the amount of said assessment from the rate the Assessment becomes delinquent until paid in full.

B. Enforcement by Lien. The Association may, but is not required to, give notice to each Owner whose Assessment is due and unpaid by mailing to said Owner a copy of a Notice and Claim of Lien which shall state the following: the last known name of the delinquent Owner; the legal description and street address of the Lot against which claim of lien is made; the amount claimed to be due and owing (with any proper offset allowed); that the claim of lien is made by the Association pursuant to the terms of the Declaration; and that a lien is claimed against the Lot in an amount equal to the amount of the stated delinquency. The Association may record a duly executed original or copy of such Notice and Claim of Lien, and the lien claimed therein shall immediately attach and become effective as a lien upon the Lot against which such Assessment was levied. Each default in payment of an Assessment shall constitute a separate basis for a claim of lien or a lien, but any number of defaults may be included within a single Notice and Claim of Lien. The amount of the lien shall include the amount of all unpaid Assessments, plus 10% interest per annum on the amount of the assessment from the date the Assessment becomes delinquent until paid in full, plus a lien charge to cover recording, legal and accounting expenses incident thereto. The amount of said lien charge may be increased or decreased by the Board in its sole discretion.

Any such lien may be foreclosed by upon appropriate action in court, or in the manner provided by law for the foreclosure of a realty mortgage, as elected by the Association, as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association shall have the power to bid in its interest at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot. In the event such foreclosure is by action in court, all attorney fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner and also hereby expressly waives the defense of the Statute of Limitations applicable to the bringing of any suit or action thereon.

Section 8. No Offsets. All Assessments shall be payable in the amount specified herein, and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties of maintenance of all or any portion of the Common Area, non-use of the Common Area, abandonment of his Lot, or failure to receive notice of the Assessment.

Section 9. Reserve Capital Contribution Fee. Each purchaser of a Lot in the Association shall pay \$250.00 to the Association Reserve Capital account at close of escrow of the Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the Assessment provided for herein shall be subordinate to the lien of any first mortgage or trust deed. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, exercise of a power of sale pursuant to a deed of trust, shall extinguish the lien of such Assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve a Lot Owner or a Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Architectural Approval. No building, fence, patio cover, awning, antenna, wall or other structure shall be commenced, erected or maintained upon the Lots, nor shall any exterior addition to or change or alteration to the Lots therein, including painting the garage door, be made until the plans and specifications showing the nature, kind, shape, height, materials, and locations of the same shall have been submitted in writing to and approved in writing as to the harmony of the external design and location in relation to surrounding structures and topography by the Board of Directors or the Architectural Control Committee, if the Board of Directors delegates full architectural control to the Architectural Control Committee. The Board of Directors reserves the right to review any and all requests submitted pursuant to this section and approve or disapprove the Architectural Control Committee's decision.

Section 2. Delegation. All rights and powers granted to the Board in this Declaration regarding architectural control may, at the discretion of the Board, be delegated to an Architectural Control Committee. All decisions of the Board or the

Architectural Control Committee shall be final and no Lot Owner or other party shall have recourse against the Board or the Architectural Control Committee for its refusal to approve any proposed improvement or alteration.

Section 3. Membership. The Architectural Control Committee shall consist of at least one Board Director, who shall be the chairperson of the committee, and such regular members and alternate members as may be determined by the Board. No member of the Architectural Control Committee shall be required to be an architect or to meet any other particular qualifications for membership on the committee. The Board shall have the right to establish such rules and regulations governing the activities and procedures of the Architectural Control Committee as the Board deems appropriate, including, but not limited to, determining the requirement for a quorum and the required vote for approval or disapproval of any item. The Board shall have the right to appoint and remove all regular and alternate members of the Architectural Control Committee at any time for any reason, and to fill any vacancies on the Architectural Control Committee however caused. Members of the Architectural Control Committee shall not be entitled to compensation for their services.

Section 4. Procedures. The Board shall establish a procedure for the preparation, submission and determination of applications for any improvement or alteration. The Board may, from time to time and in its sole and absolute discretion, adopt, amend or repeal by majority vote or unanimous written consent, rules and regulations which shall interpret and implement the provisions contained in this Article V and set forth the standards and procedures for architectural control, review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes, use of materials and similar features and items in accordance with this Declaration. The Board, or the Architectural Control Committee, shall keep and maintain a written record of all actions taken in connection with architectural control.

Section 5. Committee Action. In the event the Board, or the Architectural Control Committee, fail to approve or disapprove an application for improvement or alteration within forty-five (45) days after submission of said application, duly prepared in accordance with the rules promulgated by the Board or the Architectural Control Committee, approval will not be required, and Article V will be deemed to have been fully complied with.

Section 6. Limited Effect of Approval. The approval by the Board, or the Architectural Control Committee, of any plans, drawings or specifications, for any work done or proposed, or for any other matter requiring prior written approval by virtue of this Declaration, shall not be deemed to constitute a waiver of any requirement or restriction imposed by the City of Mesa Building Code or of any other law, or of any requirement or restriction imposed by this Declaration, or of any rights of the Board or Committee to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval. The Owner shall be required to submit a written request for approval if any requirements are imposed by the City of Mesa Building Code or of any other law or any other requirement or restriction imposed by this Declaration, after the Owner has obtained approval from the Architectural Control Committee.

Section 7. Non-liability of Committee Members. Neither the Board nor the Architectural Control Committee nor any member thereof shall be liable to the Association, to any Owner, or to any other party for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development of any Lot within the Association, or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member of the Board or the Architectural Control Committee, such Member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Board, or the Architectural Control Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Board or the Architectural Control Committee.

Section 8. Adoption of Rules. Anything to the contrary notwithstanding contained in this Declaration or otherwise, the Board shall have the right at any time and from time to time to promulgate, adopt, amend or repeal reasonable rules and regulations concerning the landscaping, color scheme, and other related matters affecting the exterior appearance of Improvements located on the Lots.

ARTICLE VI

PARTY WALLS

Section 1. Rights and Duties. Each Lot Owner shall be subject to the following limitations and restrictions with respect to party walls, as follows:

A. Each wall, including patio walls, which is constructed as part of the original construction of any structure, and placed on the dividing line between separate Lots, shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

B. In the event any such party wall or party fence is damaged or destroyed through the act of one adjoining Owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owners shall proceed to rebuild or repair the same to as good condition as formerly without cost to the adjoining Owner.

C. In the event any such party wall or party fence is damaged or destroyed by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense.

D. Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any party wall without the prior consent of all Owners of any interest therein, whether by way of easement or in fee.

E. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

F. In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a party wall, or with respect to the sharing of the costs thereof, such adjoining Owners shall submit the dispute to the Board. The decision of the Board shall be binding.

G. Each Owner shall permit the Owners of adjoining Lots, or their representatives, when reasonably required, to enter his Lot for the purpose of repairing or maintaining a party wall or for the purpose or performing installations, alterations or repairs to the property of such adjoining Owners, provided that requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner. In case of an emergency, such right of entry shall be immediate. An adjoining Owner making entry pursuant to the terms of this paragraph shall not be deemed guilty of trespass by reason of such entry.

H. If the Owners of adjoining Lots fail to rebuild or repair a party wall, then the Association shall rebuild or repair the party wall and charge the cost of this action to the Owner of the Lot who is responsible for the rebuild or repair pursuant to these provisions of Article X and the general rules of party walls.

I. An Owner of a Lot who proposes to modify, rebuild, repair or make additions to the party wall or the Residence in any manner which requires the extension or other alteration of any party wall, shall first obtain the written consent of the adjoining Owner and must meet the requirements of this Declaration and City of Mesa building codes or other applicable government ordinances. An Owner shall not increase the height of any wall within the Association greater than six (6) feet in height. If an Owner seeks to increase the height of a party wall greater than six (6) feet, the Owner must obtain the express written permission of any other Owners to that party wall and express written permission of the Board of Directors or the Architectural Committee.

J. An Owner may elect to paint the interior of the party wall without the necessity to obtain the permission of the adjoining Owner.

ARTICLE VII

EXTERIOR MAINTENANCE

Section 1. Maintenance By Association. The Association shall maintain the Common Area, Recreational Facilities and shall provide the exterior maintenance and landscaping upon each Lot which is subject to Assessment hereunder, as follows:

A. The Association shall paint the exterior of the Residences, Boundary Walls, front doors and gates.

B. Except as provided in Section (A) immediately above, the Association shall not be responsible for the installation, maintenance, repair or replacement of roofs,

exterior walls or landscaping within the interior boundaries of the fenced-in patios and yards on each Lot nor for the installation, maintenance, repair or replacement of glass surfaces, front doors, gates and garage doors.

C. The cost of the exterior painting for which the Association is responsible under Section 1(A) above, shall be assessed uniformly to all Owners in accordance with Article IV of this Declaration, except as provided in Section 1(D) below.

D. The cost of any exterior painting which results from the negligence or willfulness of an Owner, any Owner's guest or the occupant of an Owner's Lot, shall be added to such Owner's regular monthly Assessment and shall be an Assessment, lien and obligation of such Owner and shall become due and payable in all respects as provided in Article IV of this Declaration.

E. For the purpose of performing the exterior painting authorized by this Article, the Association through its duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

F. The Association shall maintain, repair and replace the sanitary sewer, water, electricity and gas lines from where the line leaves the main connection until the line enters the residence, to the extent not covered by the applicable utility company; except any cost of repair or replacement which results from the negligence or willful misconduct of an Owner, Owner's guest or occupant of the Owner's Lot, shall be due and payable by the Owner of the Lot in all respects as provided in Article IV of this Declaration.

G. The Association may, at any time, as to the Common Area and Recreational Facilities, at the discretion of the Board and without any approval of the Owners being required:

i. Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area) in accordance with (a) the plans thereof approved by the Board, (b) the original plans for the improvement, or (c) if neither of the foregoing is applicable and if such improvement was previously in existence, then in accordance with the original design, finish or standard of construction of such improvement as same existed;

ii. Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes; and

iii. Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof.

iv. Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

v. The Board shall be the sole judge as to the appropriate maintenance of all grounds and landscaping within the Common Area.

vi. No improvements, excavation or work which in any way alters any Common Area from natural or existing state shall be made or done by any person other than by the Association or its duly authorized agents, who alone shall alter any portion of the Common Area or any landscaping thereon.

Section 2. Maintenance By Owner.

A. The Owner shall be responsible for the upkeep, maintenance and repair of the following:

- i. Interior of his Residence;
- ii. Roof on the Residence;
- iii. Exterior walls, with the exception of painting as provided in Section 1 above;
- iv. Individual Patios;
- v. Windows;
- vii. Doors, garage doors and gates, with the exception of painting as provided in Section 1 above;
- viii. Glass surfaces of windows and doors;
- ix. Landscaping with the fenced-in patios and yards;
- x. Fixtures and equipment, including utility lines, pipes, wires, conduits and other systems from where the fixture or equipment enters the Residence and also inside of the Residence;
- xi. Pest Control;

B. The Owner shall maintain the Lot in a clean and attractive manner and free of debris. Owner shall do no act or work that will impair any easement, nor do any act or allow any condition to exist which will adversely affect the other Lots or their Owners.

Section 3. Self-Help. In the event any portion of any Lot is so maintained as to present a public or private nuisance or as to substantially detract from the appearance or quality of surrounding Lots or any portion of a Lot is being used in a manner which violates this Declaration, the Board may make a finding of such effect, specifying a particular condition or conditions which exists, pursuant thereto give notice to the offending Owner that, unless corrective action is taken within fifteen (15) days from the date of the written notice, the Board may cause such action be taken at said Owner's cost. If at the expiration of the fifteen (15) day period of time the requested corrective action has not been taken by the Owner, the Association and/or its authorized agents shall have the right to enter upon the Lot of the Owner and cause such corrective action to be taken. The Association and/or its authorized agent making entry upon the Lot of the Owner pursuant to this Section shall not be deemed guilty of trespass. The Association shall charge the cost of this corrective action to the Owner, and these costs shall be as an Assessment against the Lot.

ARTICLE VIII

USE RESTRICTIONS

The permitted uses, easements and restrictions for all property covered by this Declaration, except for the Common Area, shall be as follows:

Section 1. Single Family Residential Use. All Residences shall be used, improved and devoted exclusively to residential use by a single family. No trade or business may be conducted on a Lot or in or from any Residence. except that an Owner or tenant of the Residence may conduct a business activity within a Residence so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence, (ii) the business activity does not generate additional traffic to the Lot, (iii) the business activity conforms to all applicable zoning ordinances for Maricopa County or the City of Mesa, and (iv) the business activity is consistent with the residential character of the Lot and does not constitute a nuisance or hazardous or offensive use or threatens security or safety of other Owners,

tenants, or guests in the Lot, as may be determined from time to time in the sole discretion of the Board. The terms “business” and “trade” as used in this section shall be construed to have ordinary, generally accepted means, and shall include, without limitation, in the occupation, work or activity undertaken on an ongoing basis which involve the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (a) such activity is engaged in full or part time, (b) such activity is intended or does generate a profit, or (c) a license as required for such activity.

Section 2. Animals. No animals, other than a reasonable number of generally recognized house pets, shall be maintained on any Lot , and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal shall be maintained so as to be Visible From Neighboring Property. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal is a generally recognized house or yard pet, or a nuisance, or whether the number of animals on any such Lot is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained herein. Owners, residents and tenants shall keep all animals on a leash when the animal is not confined in the Residence or in the yard. Owners, residents and tenants must pick up any waste from their animal(s).

Section 3. Signs. No signs whatsoever shall be erected or maintained on any Lot within Association, except those signs set forth in A.R.S. §33-1808 and as amended, which includes political signs, caution signs, “for sale” signs, “for rent” or “for lease” signs. Also, an Owner may erect or maintain on any Lot the following: (1) such signs as may be required by legal proceedings; (2) a residence identification name place; (3) a “no solicitation” sign at the front door no larger than 2 inches by 4 inches, and (4) such signs, the nature, number and location of which have been approved in writing in advance by the Board.

Section 4. Nuisances. No rubbish or debris or any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise there from so as to render any such Lot or any portion thereof unsanitary,

unsightly, offensive or detrimental to any other Lot in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such Lot so as to be offensive or detrimental to any other Lot in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such Lot. The Board in its sole discretion shall have the right to determine the existence of any such nuisance. All yard debris, discarded appliances, building material or other items must be removed from a Lot within 48 hours.

Section 5. Repair and Painting of Buildings. No building or structure upon any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 6. Recreational Vehicles and Boats. Mobile home, recreational vehicle, boat, sand buggy, trailer of any kind, camper or other vehicle of comparable sizes (except automobiles) (collectively "Recreational Vehicles") may be kept, placed or maintained on the street and/or the driveway of a Lot for no longer than twenty-four (24) hours before and after use, provided however Recreational Vehicles shall not to block access to any driveway. Recreational Vehicles that are inoperable or not registered must be stored where the Recreational Vehicles will not be Visible From Neighboring Property.

Section 7. Vehicles: Parking and Repairs. Vehicles of an Owner, tenant or resident of a Lot must be parked in the garage situated on the Lot or the driveway of the Lot, and only if all spots in the garage and on the driveway are occupied by Vehicles, an Owner, tenant or resident may park on the street, except parking in the driveway is prohibited, if the driveway is less than eighteen (18) feet in length or if the vehicle extends past the curb. Each resident of a Lot is strongly advised to park no more than one (1) vehicle on the street. Parking on the landscaping is strictly prohibited. Washing a vehicle or Recreational Vehicle of any type within the Association is prohibited. No vehicles of any kind may be stored or parked on the Common Area or the front yard of a Residence. No vehicle may be constructed, reconstructed or repaired, on any Lot or street within the Association, in such manner as will be Visible From Neighboring

Property; provided, however that the provisions of this paragraph shall not apply to minor vehicle repairs, such as oil change, tire change, and window replacement. No repairs to a vehicle which take more than one day to complete will be allowed on any Lot or street within the Association, nor will any vehicle repairs which create a loud noise that becomes a nuisance to neighboring Owners be allowed on any Lot or street within the Association. Garages shall be used for parking vehicles and storage purposes only. Vehicles must be legally registered with current tags displayed on the vehicle. An inoperable vehicle must be stored in the Owner's garage, or moved from the Lot within 72 hours.

Section 8. Towing. The Board has the right to have any Recreational Vehicle, truck, mobile home, travel trailer, tent trailer, camper shell, detached camper, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment must be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, any amounts payable to the Association will be secured by the Assessment Lien, and the Association may enforce collection of those amounts in the same manner provided for in this Declaration for the collection of Assessments.

Section 9. Landscaping. Except in the individual patio areas of each Lot, no planting or gardening shall be done, and no hedges, shall be erected or maintained upon said premise, except with the express written approval of the Board of Directors.

Section 10. Antennas and Satellite Dishes. To the extent permitted by law, for any satellite dish less than one meter (39 inches) in diameter, wireless cable antenna or television antenna designed to receive local television signals, the first chosen location to install should be in a location where it is not Visible From Neighboring Property. The Association may require that an Owner provide reasonable screening and/or painting of the wires to match the Residence in the Board's discretion.

Section 11. Utility Service. No lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon

any Residence or Lot, unless the same shall be contained in conduits or cables installed and maintained underground or concealed in or on buildings or other structures approved by the Architectural Control Committee. No provisions hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Control Committee.

Section 12. Temporary Occupancy. No trailer, tent, shack, garage or barn, and no temporary buildings or structure of any kind shall be used at any time for a Residence on any Lot either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any Lot shall be removed immediately after the completion of construction.

Section 13. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot, unless erected, placed and maintained exclusively within the fenced rear yard of the Lot or otherwise concealed and shall not be Visible From Neighboring Property.

Section 14. Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

Section 15. Machinery and Equipment. No machinery, incinerators or equipment of any kind, including but not limited to heating and cooling machinery or equipment, shall be placed, operated or maintained upon or adjacent to any Lot, except that which the Association may require and as otherwise approved in writing by the Board.

Section 16. Diseases and Insects. No Owner shall permit anything or any condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects. Owners must immediately remove any and all beehives and termites from a Lot at the Owner's expense.

Section 17. Restrictions on Further Subdivisions. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot, nor shall any easement or other interest therein, be conveyed or transferred by any Owner without the prior written approval of the Board.

Section 18. Restrictions on Leasing. No Owner may lease less than his entire Lot and the Dwelling situated thereon. No Owner may lease less than the entire Lot for

a period of less than ninety (90) days. All leases must be in writing and must provide that the terms of the lease are subject in all respect to the provisions of this Declaration, the Articles of Incorporation, the Bylaws and all Rules and Regulations (“Rules”), and that any violation of this Declaration or the Rules by the leasee or other residents shall be a default under the lease. There shall be no subleasing of Residences or assignments of leases. At least 10 days before the commencement of the lease term, the Owner shall provide the Association with the following information: (a) the commencement date and expiration date of the lease term; (b) the name and telephone number of each of the lessees and each other adult person who resides in the Residence during the lease term; (c) the address and telephone number at which the Owner can be contacted by the Association during the lease term; (d) the name, address and telephone number of a person other than the Owner whom the Association can contact in the event of an emergency involving the Lot and (e) the license plate number and description of any vehicles the tenant’s vehicles. Any Owner who leases his Lot and the Residence situated thereon must provide the leasee with copies of this Declaration and any Association Rules.

Section 19. Swimming Pool and Tennis Courts. Proper swimming attire must be worn while using the pool. All persons who are not proficient at swimming shall be accompanied by someone who is proficient at swimming while using the pool. No intoxicated persons are allowed in the pool at any time. Owners and Residents are responsible for their guests while in the pool area. The Board shall have authority to establish rules and regulations regarding the use of the swimming pool.

Section 20. Storage. There shall be no obstruction of the Common Area. Nothing shall be stored in or placed on the Common Area without the prior written consent of the Board of Directors.

Section 21. Trash Containers. Trash containers shall be kept in the garage or stored where not Visible From Neighboring Property. Trash containers may be placed at the curb the evening before the scheduled trash pickup and must be returned to the garage or stored where not Visible From Neighboring Property no later than 24 hours after the scheduled trash pickup. An Owner shall keep the trash container in good condition and shall not over fill the trash container. An Owner must contact the

Association's managing agent, if the Owner's trash container is damaged and needs replacement.

Section 22. Increased Risk. Nothing shall be done or kept on any Lot, in any Residence or in the Common Area which will increase the rate of insurance on the Common Area without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Lot which would be in violation of any law.

ARTICLE IX INSURANCE

Section 1. Authority to Purchase. The Association, through its Board of Director or duly authorized agent, shall have the right and power to purchase and maintain at all times insurance on all Residences and Buildings against loss or damage by fire or other hazards in an amount sufficient to cover eighty percent (80%) of the replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard. The Association shall also have the right to purchase certain insurance (hereinafter "Master Policies"). The premiums for any insurance obtained by the Association shall be included in the budget of the Association and shall be paid by the Association.

Section 2. Coverage Under Master Policy. The type of insurance coverage to be obtained and provided by the Association under such Master Policies required as follows:

A. Property. Insurance coverage for the property on all Common Area insuring against all risks of direct physical loss, insured against an amount equal to the maximum insurable equivalent value of the Common Area as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property policy.

B. General Liability. Insurance coverage for comprehensive general liability, in an amount determined by the Board, but not less than \$1 million per occurrence with \$2 million aggregate. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Area and any

other portion of the properties which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverage with costs liability endorsements to cover liabilities of the Owners as a group to an Owner.

C. Worker's Compensation. To the extent necessary to meet the requirements of laws of Arizona.

D. Other Insurance. Such other insurance as the Association in its sole discretion shall determine from time to time to be desirable to protect the Association or the Owners.

Section 3. Duty of Association with Respect to Coverage. The Master Policies purchased and maintained by the Association shall, to the extent possible, as determined by the Association, contain the following provisions:

A. That the coverage afforded by said policies shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees.

B. That the conduct of any one or more Owners shall not constitute grounds for avoiding liability on said policies or be a condition to the recovery on the said policies.

C. That any "no other insurance" clause shall exclude insurance purchased by Owners or their mortgagees.

D. That there shall be no subrogation with respect to the Association, and their directors, officers, agents or employees, or with respect to the Owners and their families, agents, employees, guests and invitees, or it should name said persons as additional insureds.

E. That a severability of interest endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners.

F. Statement of the name of the insured as the Association.

G. For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance the effective date of any substantial modification, reduction or cancellation of the policy.

Section 4. Disclaimer and Waiver of Obligations. Notwithstanding any duty or agreement herein of the Association to purchase, obtain and maintain the Master Policies or any insurance coverage or to provide copies thereof, as stated herein, neither the Association nor any Board member, shall be liable or obligated to any Owner or other person, if any risks or hazards are not covered by insurance or if the amount of the insurance is not adequate, and it shall be the responsibility of each Owner to ascertain the coverage and protection afforded under the Master Policies provided by the Association and to procure and pay for such additional insurance coverage and protection as the Owners may desire.

Section 5. Certificate of Insurance. An insurer that has issued an insurance policy under this Article shall issue a certificate or memorandum of insurance to the Association and, upon request to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant this Article may not be canceled until thirty (30) days after the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary or deed of trust to whom certificates of insurance have been issued.

Section 6. Payment of Insurance Proceeds. With respect to any loss to any Common Area property covered by property insurance obtained by the Association, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions the Declaration, the proceeds shall be disbursed for the repair and restoration of the damaged Common Area property.

Section 7. Repair and Replacement of Damaged and Destroyed Property. Any portion of the Common Area which is damaged or destroyed shall be repaired or replaced promptly by the Association, unless repair or replacement would be illegal under any state or local health or safety statute or ordinance, or Owners representing at least 80% of the total authorized votes in the Association vote not to repair and/or replace the damaged or destroyed Common Area. The cost to repair and/or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the Common Area property are not repaired or replaced, insurance proceeds attributable to the damaged Common Area property shall be used to restore the damaged area to condition which is not in violation of any state or local health or

safety statute or ordinance, and remainder of the proceeds shall be retained by the Association as additional capital reserve.

ARTICLE X ASSOCIATION

Section 1. Form. The Association is a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in this Declaration, in the Articles of Incorporation, and the Bylaws for the Association. Neither the Articles nor the Bylaws shall for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 2. Management of Association Affairs. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint, in accordance with the Articles and the Bylaws, as same may be amended from time to time.

Section 3. Duties of Board. In addition to the duties and powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association, through acts of the Board of Directors, shall:

A. Own, maintain and otherwise manage all of the Common Area and all facilities, improvements and landscaping thereon, and all other property acquired by the Association.

B. Pay any real and personal property taxes and other charges assessed against the Common Area.

C. Have the authority to obtain, for the benefit of all of the Lots and the Common Area, all water, gas, sewer and electric service and refuse collection and to pay for such services to the extent that said services are not individually metered or otherwise directly billed to the individual Lots.

D. Grant easements where necessary for utilities and sewer facilities over the Common Area to serve said area and the Lots.

E. Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association. The terms of the agreement with the managing agent or contractor shall be as determined by the Board of Directors to be in

the best interests of the Association, and shall be subject to the Articles of Incorporation, the Bylaws and this Declaration of Covenants, Conditions and Restrictions affecting the Property. All management agreements shall be written for a term not to exceed one (1) year, subject to renewal for successive one (1) year terms, and shall also provide that said management agreement may be cancelled by the Board of Directors for any reason whatsoever upon providing thirty (30) days written notice of such cancellation. Each Owner shall be bound by the terms and conditions of all management agreements entered into by the Association.

F. Contract for and pay fire, casualty, liability and other insurance, as required;

G. Contract for and pay maintenance, gardening, utilities, materials, supplies and services relating to the Common Area, and to employ personnel necessary for the operation of the Association, including legal and accounting services;

H. Delegate its power to its committees, officers and employees, to the extent allowed by law;

I. Cause all Boundary Walls and all exterior, vertical surfaces of the Residences to be repainted, restained or otherwise preserved and protected from the elements from time to time and at such time as the proper maintenance thereof shall require.

J. At the request of the public body authorized to accept such, dedicate those portions of the Common Area which are used for vehicular ingress and egress as public streets.

K. Comply with any applicable City of Mesa ordinances and laws, to the best of its ability.

Section 4. Rules and Regulations. By a majority vote of the Board, the Association may, from time to time, and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations to be known as "Association Rules." The Association Rules may restrict and govern the use of the Common Area, the Recreational Facilities and any other area within the Association including conduct upon the Lots, except as to the interior of any Residence of an Owner. The Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be

adopted, amended or repealed shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, said Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 4. Limitation of Liability of Board Member. No member of the Board, member of any Committee of the Association, or any officer of the Association, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, or any other representative or employees of the Association, or the Architectural Control Committee, or any other committee, or any officer of the Association, provided that such Member has, upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

ARTICLE XI EASEMENTS

Section 1. Utility Easements. There is hereby created a blanket easement upon, across, over and under the Lots and Common Area for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to water, sewers, gas, telephones, electricity, television cable or communications lines and systems, etc. This includes the right of the Association to enter upon a Lot an access the power box located on the Lot for the purposes of repairing or servicing the Common Area lighting. It shall be expressly permissible under such easement for the providing utility or service company to install and maintain facilities and equipment on said property and to affix and maintain wires, circuits and conduits on, in and under the said Lots and Common Area. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities or service lines may be installed or relocated on said premises except as initially programmed and approved by the Declarant and thereafter approved by the Board. In no event shall any portion of the above mentioned easement for utilities be placed on or installed under any permanent building structure constructed thereon. This easement shall in no way affect any other recorded easement on said property.

Section 2. Encroachment Easements. Each Lot shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or

constructed by the original builder. A valid easement for said encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event that a Residence is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of part of the adjacent Residence due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist. Reciprocal easements are hereby reserved for the benefit of adjoining Lot Owners for the control, maintenance and repair of the utilities of adjoining Lot Owners, and over all of the Common Area.

ARTICLE XII

INDIVIDUAL PATIOS

Section 1. Rights of Owners. The rights of the Owners with respect to use of the Individual Patios, which may abut a wall of the Residence on an adjoining Lot (hereinafter “abutting dwelling unit”), shall be as follows:

A. Nothing shall be erected, planted or maintained within such area which might impede or interfere with any necessary and reasonable maintenance, repair or restoration of any wall located on or adjacent to the abutting dwelling unit.

B. The Owner shall have the exclusive use of the surface of any easement area subject to the rights of any other easement holders, if any, and subject to minor encroachments, if any, existing at the time of the creation of the easements or arising through subsidence of buildings or walls in existence at the time of creation of the easement.

C. The Owner of the abutting dwelling unit shall have such right to use the subsurface underlying the easement area, including the right of lateral and subjacent support, as shall not unreasonably interfere with the rights granted to the Owner of the Private Yard.

Section 2. Allowable Uses. Allowable uses of Individual Patios shall include the following: landscaping, sprinklers, hose bibs, decking, barbecue equipment and facilities, and sports and recreational equipment, except basketball hoops, and as a general recreational, garden and yard area. All other uses, including, but not limited to, construction of any dwelling unit or addition thereto and use of the areas for building, repairing, maintaining or storing boats, trailers, motor homes, automobiles, motorcycles, snowmobiles or other motor vehicles of any type, is prohibited.

Section 3. Boundary Walls. Walls located between a Patio and the Common Area shall be a Boundary Wall. All Boundary Walls shall be maintained as provided in Article X(3)(I) above, except any damage caused to a Boundary Wall by the negligent or willful misconduct of an Owner, Owner's guest or other Resident of the Residence shall be due and payable by the Owner of the Lot in all respects as provided in Article IV of this Declaration.

Section 4. Maintenance of Patio. Each Owner shall keep his Individual Patio and all Improvements therein or thereon, in good condition and repair, and free of debris. This includes, but not limited is not limited to, seeding, watering and mowing of all lawns and the pruning and cutting of all trees and shrubbery, and all in a manner and with such frequency as is consistent with good property management. In the event an Owner shall fail to maintain or repair his Individual Patio and the Improvements located thereon as provided herein, the Association, after reasonable notice to the Owner, shall have the right to enter upon said Individual Patio to repair or maintain the Individual Patio and Improvement erected thereon. All costs associated with such repair or maintenance shall be a lien upon the Owner's Lot, and due and payable by the Owner in all respects as provided in Article IV of this Declaration.

Section 5. Right to Enter. The Association shall have the right, at all reasonable times, after reasonable notice to the Owner, to enter into any Individual Patio for the purpose of carrying out its obligation of painting the exterior of the Residence and Boundary Walls. Such entry shall not constitute trespass.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. These covenants, conditions, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons purchasing, leasing, subleasing, occupying, owning or otherwise having an interest in any Lot within the Association, their heirs, executors, successors, grantees and assigns. The Association may enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, lien and charges now or hereafter imposed by the provisions of this Declaration or Project Documents, by the following:

A. Impose reasonable monetary penalties, after notice and opportunity to be heard is given to the Owner or other violator. An Owner shall be responsible for

the payment of any monetary penalty levied or imposed against a leasee or resident of the Owner's Lot or by any guests or invitees of the Owner or any leasee or resident.

B. Suspend an Owner's right to vote.

C. Suspend an Owner, leasee or resident's right to use any Recreational Facilities within the Common Area.

D. Suspend any services provided by the Association to an Owner or the Owner's Lot, including but not limited to restricting the water flow to a Residence, when the Owner is more than fifteen (15) days delinquent in paying any Assessment or other charge owed to the Association.

E. Exercise self help, if an Owner fails to perform any maintenance or repair required under the terms of this Declaration, then upon, fifteen (15) calendar days written notice, the Association will have the right, but not the obligation, to enter upon that Lot and perform the required maintenance or repairs. Any entry by the Association or its agents shall not be considered a trespass. The cost of the maintenance and/or repairs will be an assessment against the applicable Lot and the Owner, will be paid promptly to the Association by that Owner, and will constitute a lien upon that Owner's Lot.

F. Require an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot that is in violation of this Declaration and to restore the Lot to its previous condition and, upon failure the Owner to do so, the Board shall have the right to enter the upon the Lot, remove the violation and restore the Lot to substantially the same condition as previously existed and any such action shall not be deemed a trespass. The cost to remove the violation and restore the Lot shall be charged to the Owner as an Assessment.

G. File a suit at law or in equity to enjoin a violation of the Declaration, to compel compliance with the Declaration, to recover any monetary penalties or other money damages or to obtain such other relief as to which the Association may be entitled.

Any Owner shall also have the right to enforce this Declaration in any manner available at law or equity. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or the right to do so thereafter. Further, the Association shall not be obligated to take any

enforcement action if the Board determines, in its sole discretion, that because of the strength of the possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other fact deemed relevant by the Board, enforcement action would not be appropriate or in the best interest of the Association. If the Association or an Owner files a lawsuit to enforce provisions of the Declaration or in any other manner arising out of the Declaration, Articles, Bylaws or Association Rules, the prevailing party in such action shall be entitled to recover from the other party all attorney's fees and costs incurred by the prevailing party in such action.

Section 2. Disputes. If a dispute arises between Owners in regards to Party Walls, maintenance of landscaping, including trees, installation/use of sheds or other areas where an Owner has certain obligations to neighboring Owner pursuant to this Declaration, the disputing Owners shall contact the Association for the resolution. Upon submittal of the dispute to the Board, the Board of Directors shall make a final determination, which shall be binding on the submitting Owners.

Section 3. Duration; Termination. This Declaration, which may be amended pursuant to Section 6 below, shall run with the land and bind the Lot and be in full force and effect in perpetuity unless terminated as provided in this Section. This Declaration may be terminated at any time, if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners holding ninety percent (90%) or more of the votes in the Association. If the necessary votes and consents are obtained, the Board shall cause to be recorded a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary of the Association, with their signatures acknowledged. Following the recording of a Certificate of Termination, this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles of Incorporation.

Section 4. Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any other provisions hereof.

Section 5. Interpretation. Except for judicial construction, the Board of Directors shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction,

the Board's construction or interpretation of the provisions of this Declaration shall be final, conclusive and binding as to all persons and property that are bound by this Declaration. In the event of any conflict between this Declaration and the Articles, Bylaws or Association Rules, this Declaration shall control. In the event of any conflict between Articles and Bylaws, the Articles shall control. In the event of any conflict between the Bylaws and the Association Rules, the Bylaws shall control.

Section 6. Amendment. This Declaration may be amended at any time by the affirmative vote of Owners of not less than sixty percent (60%) of all the Lots. Any amendment approved by the Owners shall be signed by the President or Vice President of the Association and attested by the Secretary with their signatures acknowledged and shall be recorded. Unless a later effective date is provided for in the amendment, any amendment of this Declaration shall be effective upon the recording of the amendment.

Section 7. Captions and Titles. All captions, titles or headings of the articles and sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

Section 8. Violation of Law. Any violation of any state, municipal or local law, ordinance or regulation, including zoning laws, pertaining to the ownership, occupation or use of any Lot within the Lot is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in said Declaration.

Section 9. Declaration. By acceptance of a deed or by acquiring any ownership interest in any of the real property included within this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding in all subsequent and future Owners, grantees, purchasers, assignees and transferees

thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners.

Section 10. Reference to this Declaration in Deeds. Deeds to and instruments affecting any Lot may contain the covenants, conditions and restrictions set forth herein by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or any other person claiming through any instrument and his heirs, executors, administrators, successors and assignees.

Section 11. Gender and Number. Whatever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words used in the singular shall include the plural; and words of the plural shall include the singular.

IN WITNESS WHEREOF the undersigned, hereby certify that this Amended and Restated Declaration was duly adopted by the Owners as of this ____ day of _____, 20__.

BY: _____
President of Sunridge Homeowners
Association

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purpose therein contained.

Notary Public
Notary Seal

My Commission expires ___/___/20__

BY: _____
Secretary of Sunridge
Homeowners Association

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purpose therein contained.

Notary Public
Notary Seal

My Commission expires ____/____/20____