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**AMENDMENT TO THE AMENDED DECLARATION**  
**OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**OF**  
**SUNRISE TERRITORY VILLAGE HOMEOWNERS ASSOCIATION**

CERTIFICATION:

The undersigned, President and Secretary of the SUNRISE TERRITORY VILLAGE HOMEOWNERS ASSOCIATION, certify that the attached Amendments (Exhibit A attached hereto) to the Amended Declaration of Covenants, Conditions and Restrictions of Sunrise Territory Village Homeowners Association 1996 have been approved by at least 51 % of the members.

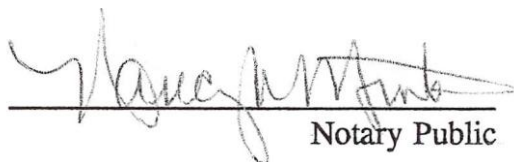
DATED this 11<sup>th</sup> day of December, 1998.


\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

STATE OF ARIZONA        )  
                                  ) ss.  
COUNTY OF PIMA        )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of December, 1998, by Bertram S. Falbaum, President, and Charlene Alentado, Secretary, on behalf of SUNRISE TERRITORY VILLAGE HOMEOWNERS ASSOCIATION, an Arizona non-profit corporation.

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

My Commission expires: 

OFFICIAL SEAL  
NANCY R. MINTEN  
Notary Public - Arizona  
PIMA COUNTY  
My Commision Expires  
January 24, 1999

## **EXHIBIT A**

1. The third sentence of Section 2 of Article VII is amended to read as follows:

All delinquent assessments shall be a lien on the Lot of the Owner who fails to pay them and shall bear interest at the rate of twenty-five percent (25 %) per annum from the date on which they become delinquent.

2. Paragraph b of Section 1 of Article X is amended by adding the following:

Every building erected, maintained, or placed upon any lot shall be set back from the property line as follows: front yard 30 feet, back yard 40 feet, side yard 10 feet.

**SUNRISE TERRITORY VILLAGE HOMEOWNERS ASSOCIATION  
AMENDED DECLARATION OF COVENANTS, CONDITIONS, AND  
RESTRICTIONS 1996**

KNOW ALL MEN BY THESE PRESENTS:

This Amended Declaration of Covenants, Conditions, and Restrictions is made on this \_\_\_\_ day of \_\_\_\_\_, 1996 by the Declarant, Sunrise Territory Village Homeowners Association (hereinafter the "Association"), the successor declarant to Lawyers Title of Arizona, an Arizona Corporation, as Trustee under trust No. 7243-T. This instrument is applicable to the "properties" which are defined as:

Lots 1 through 25 and 35 through 169, inclusive in Sunrise Territory Village, subdivision in Pima County, Arizona, according to the map or plat of record in the office of the County Recorder of Pima County Arizona, in Book 24 or Maps at page 31 thereof;

Lots 1 through 52 of Sunrise Territory Village Townhomes, being a subdivision of a portion of Sunrise Territory Village as recorded in Book 24 of Maps and Plats at Page 31 thereof of record in the office of the County Recorder of Pima County, Arizona in Book 31 of Maps and Plats at page 83: and

Lots 1 through 209 of Sunrise Ridge Townhomes, being a subdivision of a portion of Sunrise Territory Village as recorded in Book 24 of maps and plats at page 31 thereof of record in the Office of the County Recorder of Pima County Arizona in Book 31 of Maps and Plats at page 98.

The real property as described herein shall be held, sold, and conveyed subject to the following covenants, conditions, and restrictions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the property. These covenants, conditions, and restrictions run with the land and shall be binding upon all parties acquiring and having acquired any right, title, or interest in the described properties or any part thereof and shall inure to the benefit of each such party.

**ARTICLE I  
DEFINITIONS**

Section 1. "Association" shall mean and refer to **SUNRISE TERRITORY VILLAGE HOMEOWNERS ASSOCIATION**, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinafore described.

Section 3. "Common local areas" shall mean all real property designated as private streets on the Plat-1 as resubdivided by Plat-2 and Plat-3, including common area E on Plat-3.

Section 4. "'Sunrise Community" shall mean all of the real property located within the boundaries described in "Exhibit A" attached hereto and by this reference made a part hereof, which is declared to be a part of Sunrise Community in a declaration or declarations filed by the Declarant in the offices of the County Recorder, Pima County, Arizona.

Section 5 "Common Areas" shall mean the real property designated as (Private) Open Space on the Plat-1 as resubdivided by Plat-2 and Plat-3.

Section 6. "Lot" shall mean the numbered plats of land shown on Plat-1, Plat-2, and Plat-3, as modified by Article II (without regard to whether a structure has been constructed thereon, unless otherwise defined herein).

Section 7. “Member” shall mean and refer to every person who holds Membership in the Association.

Section 8. “Owner” shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot which is part of the Properties, including the buyer under a contract for the sale of real estate but excluding persons holding an interest merely as security for the performance of an obligation.

Section 9. “Declarant” shall mean and refer to SUNRISE TERRITORY VILLAGE HOMEOWNERS ASSOCIATION”, having succeeded to the rights of LAWYERS TITLE OF ARIZONA, the Predecessor Declarant hereunder.

Section 10.”Mortgage” shall include not only mortgages but also deeds of trust, and the term “Mortgages” shall include a beneficiary under a Deed of Trust.

Section 11. “Plat-1” shall mean the map or plat of record in the office of the County Recorder of Pima County, Arizona, in Book 24 of Maps and Plats at page 31 thereof, Sunrise Territory Village, Lots 1 through 28 and lots 35 through 169 inclusive.

Section 12. “Plat-2” shall mean the map or plat of record in the office of the County Recorder of Pima County, Arizona in Book 31 of Maps and Plats at page 83 thereof, Sunrise Territory Village Townhomes, Lots 1 through 52 inclusive.

Section 13. “Plat-3” shall mean the map or plat of record in the office of the County Recorder of Pima County, Arizona, in Book 31 of Maps and Plats at Page 98 thereof, Sunrise Ridge Townhomes, Lots 1 through 209 inclusive.

Section 14. “Person” shall include a corporation, company, partnership, firm, association, or society, as well as a natural person.

Section 15. “Territory Drive” shall mean the Territory Drive dedicated in the plat for Sunrise Presidio Village, Lots 132 thru 201, of record in the office of the County Recorder of Pima County Arizona, in Book 24 of Maps and Plats at Page 26 thereof and lots 202 thru 241 of record in the office of the Pima County Recorder of Pima County Arizona in Book 29 of Maps and Plats at Page 64 thereof.

Section 16. “Apache Hills Trail” shall mean The Apache Hills Trail dedicated in Plat-1.

Section 17. “Hohokam Trail” shall mean the Hohokam Trail dedicated in Plat-2.

Section 18. “Post Trail” and “Fort Yuma Trail” shall mean the Post Trail and Fort Yuma Trail dedicated in Plat-1 as modified in Plat-3.

## **ARTICLE II**

### **SCOPE OF AGREEMENT**

This agreement covers all rights and duties of the owners of lots in Plat-1, Lots 44 through 52 in Plat-2, and Lots 199 through 209 in Plat-3. All of the common areas referred to in Plat-1 are owned by the Association and are subject to all the rights and duties relating thereto as set forth in the remainder of this agreement.

The owners of Lots 1 thru 53 of Plat-2 and Lots 1 thru 198 of Plat-3 shall not be subject to the terms of this agreement and shall not be members of the association.

**ARTICLE III**  
**MEMBERSHIP**

Every person who is owner of a Lot in Plat-1, Plat-2 excluding Lots 1 thru 43, and Plat-3, excluding lots 1 thru 109, shall be a member of the Association. Membership shall be appurtenant to and not be separated from ownership of a lot.

**ARTICLE IV**  
**VOTING RIGHTS**

Section I. Each owner shall be entitled to one (1) vote for each lot he owns, except that there shall be but one (1) vote for each lot, whether the same is owned by one (1) person, by a husband and wife, by joint tenants, or any other form of ownership. Co-owners must agree on the vote and if they cannot agree, the vote shall be pro-rated among them.

**ARTICLE V**  
**COMMON AREAS AND COMMON LOCAL AREAS**

Ownership of the Common Areas is hereby vested in the Association subject to the easements created in Article VI thereof. Common Areas are intended for use as public utility easements, drainage ways, and open areas in Sunrise Territory Village and are for the common use and enjoyment of the Members of the Association and all persons who own real property in Sunrise Community.

Ownership of the Common Local Areas is hereby vested in the Association for the benefit of the Members.

Any sale, lease, or sub-lease of a Lot by its owner or transfer of the same by operation of law shall serve to transfer, convey, lease, or sub-lease to the same extent all of said Owner's right to use the Common Local Areas and Common Areas.

**ARTICLE VI**  
**EASEMENTS**

Section 1. Each Lot and the property included in the Common Local Areas and Common Areas shall be subject to an easement for encroachments created by construction, settling and overhangs.

Section 2. There is hereby created a blanket easement upon, across, and under all of the Common Areas and Common Local Areas for the use and enjoyment of all Members, their guests, invitees and licensees, subject to reasonable regulations of the Association, and for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including but not limited to water, sewer, gas, telephone and electricity and television antennae system.

Section 3. There is hereby created a blanket easement upon, across, over and under all of the Common Areas for the use and enjoyment of all persons owning real property in Sunrise Community, their guests, invitees and licensees, subject to reasonable regulations by the Associations within Sunrise Community so long as such regulation does not discriminate against such persons.

Section 4. A drainage easement is hereby created upon, across, over, and under each Lot for the benefit of all other Lots.

Section 5. There is hereby created an easement upon, across, and over that portion of Apache Hills Trail from the intersection with Hohokam Trail south to the intersection with Territory Drive for the members, guests, invitees, or licensees of Sunrise Territory Village Townhomes Homeowners Association in exchange for their payment of one-half (1/2) the maintenance fees for this portion of Apache Hills Trail. Also, there is hereby created an easement upon, across, and over Post Trail and Fort Yuma Trail for the members, their guests, invitees, and licensees of Sunrise Ridge Townhomes Homeowners Association in exchange for their payment of one-half (1/2) the maintenance fees for this portion of Post Trail and Fort Yuma Trail.

## **ARTICLE VII** **ASSESSMENT**

Section 1. The Association shall be responsible for the control, safety, maintenance, liability, and upkeep of the Property and improvements in the Common Local Areas and Common Areas and shall do all things necessary or convenient for the general benefit and welfare of the Owners and of all persons owning real property in the Sunrise Community as their interests may appear and shall manage and maintain said Common Local Areas and Common Areas in accordance with the Bylaws, its Articles of Incorporation and provisions of their presents.

Section 2. The Association shall have the power to levy assessments, payable monthly or annually or otherwise by resolution of the Board of Directors and to collect delinquent assessments by action of law or otherwise from the Owners subject to the provisions of Article XI. Payment shall be due on the first day of the year and shall become delinquent thirty (30) days thereafter if not fully paid. All delinquent assessments shall be a lien on the Lot of the Owner who fails to pay them and shall bear interest at the rate of eight percent (8%) per annum from the date on which they become delinquent. The duty of an Owner to pay these assessments is absolute and is not affected by any claim the Owner may have, or believes he has, against any other person, including the Declarant. Failure to receive an invoice does not relieve an Owner of responsibility to contact the Association and pay regular assessments when due.

Any such lien shall be subject and subordinated to a recorded first mortgage upon any of said Lots made in good faith and for value, whether now existing or made and recorded at any time hereafter. Should a mortgagee of a first mortgage of record, or any assignee of a first mortgage, obtain title to any Lot as a result of a foreclosure of the first mortgage, such acquirer of title, his successor or assigns, including any purchase at the Sheriff's sale ordered by said foreclosure, shall not be liable for assessments by the Association chargeable to such Lot which became due prior to acquisition of title to such Lot by such acquirer. After acquisition of title, such acquirer shall pay the assessments chargeable to such Lot. In the event it shall become necessary for the Association to employ attorneys to collect delinquent assessments, whether by foreclosure of the lien created herein or otherwise, the delinquent Owner shall pay, in addition to the assessment and interest accrued thereon, a reasonable attorney's fee and all other costs and expenses incurred by the Association as a result of such delinquency.

Section 3. The Directors of the Association shall each year estimate the cost for the ensuing fiscal year commencing January 1 of managing, maintaining, operating and repairing any and all properties owned by the Association and the costs of such other activities and undertakings as are consonant with the purposes of the Association, including but not limited to the following: The costs of all water used thereon, all property taxes, planting, landscaping and maintenance, legal and accounting expenses of the Association, repair and cleaning as necessary, a management fee for the properties managed, gas and electric expenses of the Common Local Areas, if any, expenses for the charges of a fire company, insurance premiums, a reserve account for repair and maintenance and other necessary expenses. Each Lot shall be liable for the payment of its pro rata share of the total cost determined by the Directors and the Directors shall levy an assessment against each Lot for said Lot's share pursuant to the provisions of Section 2 above. An Owner cannot exempt himself from the assessment by non-use of his Lot; he shall be liable for the same as long as he shall own a Lot. Should any owner make a voluntary conveyance of a Lot, he and his buyer shall be and remain jointly and severally liable for the payment of all past assessments existing unpaid at the time of the conveyance.

Section 4. The Association shall secure policies so that a blanket insurance policy is in force at all times providing coverage for the Common Areas and Common Local Areas with liability insurance in the amount of ONE MILLION DOLLARS, and it shall secure fire and extended coverage in an amount sufficient to adequately and properly insure all structures, equipment, and improvements. All insurance policies purchased by the Association and shall provide that all proceeds covering property losses shall be paid to the Association. All insurance proceeds shall be held in trust for building the damaged property. The Association shall have authority to negotiate with the insurance carrier and to adjust losses, make settlements and give releases to the insurance carrier.

In the event of damage or destruction by fire or other casualty to the property covered by the described insurance policies, the Board of Directors, shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed property to as good condition as formerly.

## **ARTICLE VIII**

### **OWNER'S RESPONSIBILITIES**

Each Owner shall be responsible for his Lot's utility costs, ad valorem taxes and appliance repairs. In addition, each Owner shall be responsible for all exterior maintenance or repairs for buildings, fences, walls, trees, shrubs, grass, walks, and other exterior items on his Lot. No owner shall do any painting with a color differing from the original of the exterior portions of structures on his Lot, including fences, without the approval of the Architectural Committee. If a roof must be repaired or replaced, it shall conform to the same architectural design and style as the original roof. Each Owner shall also be responsible for installation and maintenance of utility service lines from the main utilities lines to the house on his Lot. Each owner shall be responsible for and pay for all damage he, his guests, family, pets, or employees cause to his or any other Member's property or to the property held by the Association for common use. If an Owner fails or refuses to pay for or properly repair such damage, the cost of repairing it should be added to and become part of the assessment to which his Lot is subject, and collected in like

manner as delinquent assessments. Each Owner shall be responsible for assuring that all construction, modification, or addition to buildings, walls, fences, copings, roads, driveways, or other structures on his Lot conform to these Covenants, Conditions, and Restrictions. Owners who fail to comply with said restrictions, rules, and regulations, shall be responsible for and pay for said removal, repainting, alteration, replacement, or upgrading of such non-conforming items to meet said requirements.

**ARTICLE IX**  
**ARCHITECTURAL COMMITTEE**

Two (2) copies of all plans and specifications for any building, wall, fence, coping, road, driveway, or other structure whatsoever to be erected on or moved upon any part of the Properties, including the proposed location thereof on any Lot and the exterior color scheme thereof, and two (2) copies of all plans and specifications for any remodeling, reconstruction, alterations, or additions to any building or other structure on any Lot shall be submitted to the Architectural Committee for its approval. No structure of any kind shall be constructed, altered or moved upon any Lot until the plans and specifications thereof have received the written approval of such Architectural Committee.

The Architectural Committee shall either approve or disapprove said plans and specifications within thirty (30) days from receipt thereof. One set of said plans and specifications, with the Architectural Committee's approval or disapproval endorsed thereon shall be returned to the person who submitted the same and the other copy thereof shall be retained by the Architectural Committee. If the Architectural Committee shall fail in writing to approve or disapprove such plans and specifications within thirty (30) days after receipt, the provisions of this paragraph shall be deemed waived.

The Architectural Committee shall have the right to disapprove any plans or specifications submitted to it which, in its sole discretion, are not in harmony with the general surroundings of this declaration or are incomplete. The Architectural Committee shall give notice of its decision to all parties who have made known their interest in the matter in writing to the Architectural Committee. Any party aggrieved by a decision of the Architectural Committee may appeal that decision to the Board of Directors within fifteen (15) days of notice thereof. Upon receipt of written notice of appeal, the Board of Directors shall set the matter for hearing for a date not later than thirty (30) days following receipt of said notice of appeal and give all interested parties notice of the hearing not less than ten (ten) days prior thereto. At the hearing, all interested parties and the Architectural Committee may present testimony and documentary evidence. The Board of Directors shall rule on the matter not later than ten (10) days following the hearing. The decision of the Board of Directors shall be final. Neither the Declarant nor the Architectural Committee shall be responsible in any way for any defects in any plans or specifications submitted in accordance with the foregoing, nor for any structural defects in any building or structures erected according to such plans or specifications.

The Architectural Committee shall be composed of three (3) members appointed by the Board of Directors. The Committee may designate a representative to act for it. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this covenant. Designated contractors or agents are entitled to reasonable compensation. The Board



of Directors shall have the sole authority to hire and determine compensation for any contractor or agent retained to serve the Architectural Committee.

Subject to review and approval by the Board of Directors, the Architectural Committee shall have the authority to enact and amend written rules and regulations on construction. Such Rules and Regulations as may be enacted by the Committee shall not be in conflict with any provisions in this Declaration.

The Association may charge each applicant for architectural approval a fee which shall be paid to the Association or its designated representative. The fee shall not exceed \$250 of the estimated cost of the improvements for which approval is sought.

## **ARTICLE X** **USE RESTRICTIONS**

### **Section 1. Land Use and Building Type**

a. All Lots shall be used for residential purposes only, and no structure whatever other than single-family residence shall be placed or maintained thereon.

b. No building shall be placed or maintained on any of said Lots which shall have a ground floor area of less than 2000 square feet, such ground area to be exclusive of porches, pergolas, or an attached garage.

c. No business or commercial enterprise involving public or employee traffic to and from residence shall be conducted on said Lots.

d. No room or rooms in any residence on said Lots may be rented or leased; nothing in this paragraph shall be construed as preventing the renting or leasing of an entire Lot, together with its improvements. However, no Lot may be rented for a hotel or transient purpose, which shall be construed to mean for a period of less than thirty (30) days.

e. Selection of paint colors for all exterior surfaces (including visible roofs) for new construction and re-painting other than the original color must be approved by the Architectural Committee. All surfaces and material to receive paint, stains or coatings shall be covered completely. All vents and roof appurtenances shall be painted to match the approved color of the roof. Selection of paint colors must be made prior to approval of the plans. Paint colors must be desert tones consistent with existing neighborhood.

### **Section 2. No Temporary Buildings or Trailers**

a. No temporary house, house trailer, tent, garage, camper, boat or outbuilding of any kind shall be placed or erected upon any part of the Property, and no residence placed or erected on any Lot shall be occupied in any manner at any time prior to its being completed in accordance with approved plans, as hereinafter provided, nor shall any residence, when completed, be in any manner occupied until made to comply with all requirements, conditions and restrictions set forth herein; provided that during the actual construction or alteration of a building on any Lot, necessary temporary buildings for storage of materials, etc., may be erected and maintained by the person doing the work. The work of constructing, altering, or remodeling any building on

any part of the properties shall be prosecuted diligently from the commencement thereof until the completion thereof.

b. No garage, nor other building or structure shall be erected, maintained, or placed on any Lot until the construction and completion of the principal residence thereof, except that the necessary outbuildings, garage or other structures relating to the main residence may be simultaneously constructed and nothing herein contained shall be construed to prevent the incorporation and construction of a garage in and as part of such residence.

c. No building of any nature shall be removed from without the Properties to any Lot within the Properties without the consent of the Architectural Committee; and in the event a building shall be so placed from without on any Lot, said building shall comply in all respects with each and every provision of this Declaration of Conditions and Restrictions relating thereto.

### Section 3. Derricks, Tanks, Heating, Cooling

a. No structure designed for use in boring for water, oil, or natural gas shall be erected, placed or permitted upon any part of the Properties, nor shall any water, oil natural gas, petroleum, asphaltum or hydrocarbon products be produced or extracted therefrom.

b. No elevated or visible storage tanks of any kind, shall be erected, placed or permitted upon any part of the Properties.

c. All evaporative coolers, air conditioning units, and heating equipment shall be installed only as approved by the Architectural Committee.

d. Unless concealed, solar devices, radio or television antennae, satellite dish antennae or other receiving or transmission devices shall be installed in a manner as required by the Architectural Committee. Gazebos, porch additions, dog runs, solariums, hot tubs, roof access ladders, rooftop structures and other improvements must be approved by the Architectural Committee.

### Section 4. Signs

No billboards or advertising signs of any character shall be erected, placed or permitted or maintained on any Lot or on or in any Building erected thereon, other than a nameplate of the occupant of any residence, security signs and real estate signs and provided such signs shall be approved by the Architectural Committee. Outdoor security signs and real estate signs shall be limited to one sign per Lot.

### Section 5. Rubbish and Garbage

No Lot shall be used in whole or part for the storage of rubbish of any character whatsoever nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious otherwise. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done, placed or stored thereon which may become an annoyance or nuisance to the neighborhood or occasion any noise or odor which will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding properties. All equipment for the storage or disposal of garbage or other waste shall be kept in a clean and

sanitary condition. On regular trash collection days or the night before, appropriate closed containers may be placed at curbside. After collection, all remaining empty containers must be removed from view as soon as practicable, but no later than the night of the day of collection.

#### Section 6. Animals

No cattle, sheep, goats, pigs, rabbits, poultry or other livestock shall be bred, raised to be kept on the properties, nor shall multiple dogs, cats or other animals be kept in kennels or similar enclosures on the Properties. This restriction will not be construed however, as prohibiting the keeping of ordinary domestic pets as long as such pets are kept confined in the single-family residence and fenced yard. Pets outside the enclosed confines of the Lot shall be leashed and the Owner of a lot where any pet is kept shall be required to remove immediately and dispose of hygienically, any animal waste produced by the pet and left on any other Owner's Lot or any part of the Common Areas.

#### Section 7. Resubdivision

No Lot or Lots shall be resubdivided except for the purpose of combining the resubdivided portions with another adjoining Lot or Lots, provided that no additional Lot is created thereby. Any resubdivision shall comply with state law and county ordinance.

#### Section 8. Noise

No Owner shall engage in any activity or permit any activity to occur on the Properties which shall result in unusual, loud or obtrusive noise or sounds.

#### Section 9. Shrubs, Trees

No shrubs, trees or obstructions of any kind shall be placed on corner Lots in such places to cause a traffic hazard.

#### Section 10. Vehicle Parking and Storage

##### A. General

Residents and guests upon the Properties shall adhere to posted traffic regulations and park motorized or non-motorized vehicles on off-street parking areas. Notwithstanding the above provisions, Residents and Guests may temporarily park their vehicles on the streets in front of residences for the purpose of social events or commercial services.

##### B. Recreational Vehicles

Parking, storage, or occupancy of recreational vehicles (including, but not limited to, trailers, campers, motor homes, van conversions, and boats) is prohibited on all portions of the Properties, except within the confines of an enclosed garage. However, notwithstanding the foregoing provisions, a recreational vehicle may be parked on an Owner's Lot not exceeding three (3) days for the purpose of loading and unloading.

##### C. Inoperable, Junked, and Wrecked Vehicles and Vehicles Under Repair

No inoperable, junked, or wrecked vehicles or vehicles under repair shall be placed or stored on any portion of the Properties, other than inside a fully enclosed garage.

#### D. Commercial Vehicles

Except for commercial service vehicles on temporary business, no commercial, construction or like vehicles shall be parked or stored at any place on the Properties, other than inside a fully enclosed garage.

#### Section 11. Common Local Areas and Common Areas.

a. Within drainageways, no structure, planting or other material shall be placed or permitted to remain which may change the direction of flow or which may obstruct or retard the flow of water.

b. With regard to Common Areas, they shall be managed in compliance with the Pima County Zoning Ordinance.

#### Section 12. Lights and exterior lighting.

All exterior lights must be located and maintained so as not to be directed toward or interfere with surrounding Properties.

#### Section 13. Failure to Comply

The failure of an Owner to comply with the requirements of the Articles of this Declaration or Rules and Regulations may result in monetary penalties.

#### Section 14. Protest of Notification

Any Owner notified of an offending condition by the Board or any agent of the Board may appeal that decision to the Board of Directors within fifteen (15) days of notice thereof. Upon receipt of written notice of appeal, the Board of Directors shall set the matter for hearing for a date not later than thirty (30) days following receipt of said notice of appeal and give all interested parties notice of the hearing not less than ten (10) days prior thereto. At the hearing, all interested parties may present testimony and documentary evidence. The Board of Directors shall rule on the matter not later than ten (10) days following the hearing. The Board's determination regarding the existence and need for remedy of an offending condition shall be final.

### **ARTICLE XI** **GENERAL PROVISIONS**

#### Section 1. Enforcement

##### A. Judicial Remedies

The Association or any Owner shall have the right and authority to bring an action at law or in equity to enforce any of the provisions and restrictions in this Declaration, or any rule or regulation enacted pursuant thereto. Expenses of enforcement, in the event the Association is a substantially prevailing party, shall be paid to the Association by the Owner against whom enforcement action was commenced.

**B. Other Remedies**

For violation of any provision of this Declaration or any Rule or Regulation enacted as set forth herein, the Board of Directors of the Association shall have the right to, but not the duty to:

- a. Determine and impose fines or penalties; and/or
- b. Suspend a Member's right to vote

**C. Delays or Omissions**

No delay or omission on the part of the Declarant, its successors, the Association, or any Owner in exercising their right of enforcement hereunder shall be construed as a waiver of any breach of any of the restrictions and covenants herein contained or acquiescence in any breach hereof and no right of action shall accrue against the Association or any Owner for their neglect or refusal to exercise such right of enforcement, nor shall any right of action accrue against the Association for including herein provisions, conditions, restrictions, or covenants which may be unenforceable.

**Section 2. Severability**

Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any others which shall remain in full force and effect.

**Section 3. Amendment**

This Declaration may be amended by the Association, provided, however, that any amendment made by the Association shall be approved by at least fifty-one percent (51%) of the Members and shall be made only by an instrument in writing signed by the President and Secretary of the Association and filed with the Pima County Recorder of Pima County, Arizona.

**Section 4. Term**

The aforesaid provisions, conditions, restrictions and covenants, and each and all thereof shall run with the land and continue and remain in full force and affect at all times and against all persons until January 1, 2000, at which time they shall be automatically extended for successive periods of ten (10) years, unless by a vote of at least fifty-one percent (51%) of the members it is agreed to change them in whole or in part.

**Section 5. Compliance**

All covenants, conditions, provisions and restrictions contained herein or any amendments thereto are subject to Pima County Board of Supervisors Subdivision Regulations and Ordinances and any and all other applicable governmental rules and regulations.

**IN WITNESS WHEREOF**, the undersigned, being the Declarant herein, has hereunto set its hand and seal this \_\_\_\_ day of \_\_\_\_\_, 1996.