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NORTHPOINTE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter termed the "Declaration") is dated April 2, 1984. It is :made by CARDON HOMES CORPORATION, an Arizona corporation (hereinafter "Declarant")

WITNESSETH:

WHEREAS, Declarant holds legal title to the lands located in Mesa, Maricopa County, Arizona, which is legally described on Exhibit A attached to this Declaration arid incorporated herein by this reference; and

WHEREAS, Declarant desires to develop, in stages, the aforesaid lands for residential and recreational uses; and

WHEREAS, at full development it is intended, without obligation, that said lands will collectively have several residential neighborhoods and one or more parks and recreational areas including but not limited to swimming pools, racquet ball courts, open spaces, walkways, and drives; and

WHEREAS, as part of the various stages of development of the aforesaid lands, Declarant intends, without obligation, to record various subdivision plats; to dedicate portions of said lands to the public for streets, roadways, drainage, flood control, parks and general public use; and to record various Tract Declarations covering portions of said lands, which Tract Declarations will designate the purposes for which such portions of NorthPointe may be used and may set forth additional covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements applicable to such portions of Northpointe; and

WHEREAS, as part of the development of the aforesaid lands, Declarant intends without obligation, to sell various parcels, included in Northpointe to various builders and to record Tract Declarations on the parcels sold, and those builders, with the Declarant's approval, may record plats and make public dedications on the parcels purchased; and

WHEREAS, Declarant desires to form a non-profit corporation for the purpose of benefiting Northpointe and its Owners and Residents (as said terms are defined herein below), which non-profit corporation (hereinafter termed the "Association") will (1) acquire, construct, operate, manage and maintain a variety of Common Areas and other areas upon Northpointe; (2) establish, levy, collect and disburse the Assessments and other charges imposed hereunder; and (3) as the agent and representative of the Members of the Association and Residents of Northpointe, administer and enforce all provisions hereof and enforce use and other restrictions imposed on various parts of Northpointe, and

WHEREAS, the Declarant is preparing the necessary documents for the incorporation and organization of the Association; and

WHEREAS, the Declarant desires to establish. for its own benefit and for the mutual benefit of all future owners, lien holders, residents, occupants or other holders of an interest in Northpointe, or any part thereof, certain easements and rights and certain mutually beneficial covenants, restrictions and obligations with respect to the proper development, use and maintenance of the various parcels and neighborhoods within Northpointe; and

WHEREAS, Declarant desires and intends that the owners, mortgagees, beneficiaries and trustees under trust instruments or deeds, occupants, residents and other persons hereafter acquiring any interest in Northpointe, shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the aesthetic and cooperative aspects of Northpointe and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of Northpointe; and

WHEREAS, the Declarant therefore wishes to subject all of Northpointe to the covenants, conditions, restrictions, assessments, charges, servitudes, liens, reservations and easements (hereinafter collectively called "Covenants") hereinafter set forth; and

WHEREAS, in order to cause the Covenants to run with Northpointe and to be binding upon Northpointe and the Owners thereof from and after the date of recordation of this Declaration, Declarant hereby makes all conveyances of Northpointe, whether or not so provided therein, subject to the Covenants herein set forth; and by accepting deeds, leases, casements, or other grants or conveyances to any portion of Northpointe, the Owners and other transferees for themselves and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the

Covenants(including but not limited to the obligation to Pay Assessments) hereinafter set forth except to the extent such persons are specifically excepted herefrom.

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

The following words, phrases or terms used in this Declaration shall have the following meanings:

A. "Northpointe " shall mean the real property described on Page 1 and Exhibit A of this Declaration and the development to be completed thereon.

B. "Northpointe Rules" shall mean the rules for Northpointe adopted by the Board pursuant to Article V, Section 3.

C. "Annual Assessment" shall mean the charge levied and assessed each year against each Lot, and Owner pursuant to Article VII, Section 2, hereof.

D. "Architectural Committee" shall mean the Architectural Committee of the Association to be created pursuant to Article XI below.

E. "Articles" shall mean the articles of Incorporation of the Association as the same may from time to time be amended or supplemented.

F. "Assessable Property" shall mean any lot within Northpointe.

G. "Assessment" shall mean an Annual Assessment, Special Assessment and/or Maintenance Charge.

H. "Assessment Lien" shall mean the lien created and imposed by Article VII.

I. "Assessment Period" shall mean the term set forth in Article VII, Section 7.

J. "Association" shall mean the Arizona nonprofit corporation to be organized by Declarant to administer and enforce the Covenants and to exercise the rights, powers and duties set forth in this Declaration, its successors and assigns. Declarant hereby reserves the exclusive right to cause such Association to be incorporated and intends to name the Association "NORTHPOINTE HOMEOWNERS ASSOCIATION".

K. "Association Land" shall mean such part or parts of Northpointe together with the buildings, structures and improvements thereon, and other real property which the Association now or hereafter owns in fee or in which the Association now or hereafter has a leasehold interest, for as long as the Association is the owner of the fee or leasehold interest.

L. "Board" shall mean the Board of Directors of the Association.

M. "Bylaws" shall mean the Bylaws of the Association as the same may from time to time be amended or supplemented.

N. "Common Area and Common Areas" shall mean (a) the parcels of ground described as follows: Lots 24 & 25, Northpointe III; Common Area D, NPPI and Tract A, Northpointe III (b) all Association Land; (c) all land or right-of-way easements within Northpointe which are dedicated to the public or to the City of Mesa, but which the City of Mesa or other governmental agency requires the Association to maintain; (d) areas on a Lot or neighboring property within easements granted to the Association or its Members for the location, construction, maintenance, repair and replacement of a wall, which easement may be granted or created on a Recorded subdivision plat or Tract Declaration or by a deed or other conveyance accepted by the: Association.

P. "Condominium Unit" shall mean an apartment unit (as defined under A.R.S. Section 33-551 et seq.) together with any appurtenant interest in all general and common elements, which is created by a horizontal property regime established under Arizona law.

Q. "Covenants" shall mean the covenants, conditions, restrictions, assessments, charges, servitudes, liens; reservations and easements set forth herein. .

R. "Declarant" shall. mean Cardon Homes Corporation, an Arizona Corporation, and the successors and assigns of Declarant's rights and powers hereunder.

S. "Declaration" shall mean this Declaration or Covenants, Conditions and Restrictions, as amended or supplemented from time to time.

T. "Deed" shall mean a deed or other instrument conveying the fee simple title in a "Lot".

U. "Dwelling Unit" shall mean any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by a single family.

V. "Land Use Classification" shall mean the classification to be established by the Declarant pursuant to Article IV, Section 1, which designates the type of improvements which may be constructed on a Lot or Association Land and the purposes for which such improvements and surrounding land may be utilized.

W. "Lease" shall mean a lease, whether oral or written and regardless of the term thereof, for the leasing or rental of an apartment or other residential unit.

X. "Lot" shall mean any (a) area of real property within Northpointe designated as a Lot on any subdivision plat recorded or approved by Declarant and limited by a Tract Declaration to either ~~Single Family Residential Use or Cluster~~ Residential Use and (b) any Condominium Unit within Northpointe which is limited to residential use be a Tract Declaration.

Y. "Maintenance Charges" shall mean any and all costs assessed pursuant to Article X, Sections 2 and 3.

Z. "Member" shall mean any person holding a Membership in the Association pursuant to this Declaration.

Aa. "Membership" shall mean a membership in the Association and the rights granted to the Owners and Declarant pursuant to Article VI to participate in the Association.

Bb. "Neighboring Property" is any property or streets within Northpointe other than the specific property in reference.

Cc. "Owner" (when so capitalized) shall mean the record holder of legal, beneficial or equitable title to the fee simple interest of any Lot including, without limitation, one who is buying a Lot under a recorded contract, but excluding others who hold such title merely as security. Owner shall not include a lessee or tenant of a Lot.. In the case of Lots, the fee simple title to which is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., legal title shall be deemed to be in the Trustor. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a trust agreement the beneficiary of any such trust entitled to possession shall be deemed to be the Owner. An Owner shall include any person who holds record title to a Lot in joint ownership with any other person or holds an undivided fee interest in any Lot.

Dd. "Recording" shall mean placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona and "Recorded" shall mean having been so placed of public record.

Ee. "Resident" shall mean:

(1) Each buyer under a contract of sale covering any part of the Assessable Property, regardless of whether the contract is recorded, and each tenant or lessee actually residing or conducting a business on any part of the Assessable Property; and

(2) Members of the immediate family of each Owner, lessee, tenant and of each buyer referred to in subparagraph (1) actually living in the same household with such Owner, lessee, tenant or buyer.

Subject to such rules and regulations as the Association may hereafter specify, the term "Resident" also shall include the guests or invitees of any such Owner, lessee, buyer or tenant, if and to the extent the Board in its absolute discretion by resolution so directs.

Ff. "Residential Areas" shall include Single Family Residential Developments, Cluster Residential Developments, Residential Condominium Developments and all common recreational areas and facilities associated with any of the foregoing Residential areas. The Architectural Committee shall be the governing Architectural Committee with respect to all Residential Areas. Association Land and all Common Areas shall be deemed Residential Areas and shall be governed by the Architectural Committee.

Gg. "Residential Memberships" shall be Memberships attributable to the ownership of Lots within Northpointe.

Hh. "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Dwelling Unit.

Ii. "Special Assessment" shall mean any assessment levied and assessed pursuant to Article VII, Section 5.

Jj. "Special Use Fees" shall mean special fees authorized by this Declaration which as Owner, Resident or any other person is obligated to pay to the Association over, above and in addition to any Annual or Special Assessments or Maintenance Charges imposed or payable hereunder.

Kk. "Tract Declaration" shall mean a declaration recorded pursuant to Article IV, Section 1 of this Declaration.

L1. "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall standing on Neighboring Property, on the level of the base of the object being viewed.

ARTICLE II

PROPERTY SUBJECT TO NORTHPOINTE DECLARATION

Section 1. General Declaration Creating Northpointe. Declarant hereby declares that all of the real property within Northpointe is and shall be hold, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part, subject to this Declaration as amended or modified from time to time. In addition, all of the real property within Northpointe shall be subject to recorded Tract Declarations as applicable and as amended from time to time. Declarant intends to develop Northpointe by subdivision into various Lots and to sell and convey such lots. As portions of Northpointe are developed or sold to other builders or developers for developments, Declarant shall record one or more Tract Declarations covering such property. Said Tract Declarations will specify the Land Use Classification and permitted uses of property described therein (in accordance with Article IV hereof) and will incorporate this Declaration and establish such additional covenants, conditions and restrictions as may be appropriate for that property. This Declaration and all subsequent Tract Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, development, improvement and sale of Northpointe and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of Northpointe and every part thereof. All of this Declaration and applicable Tract Declarations shall run with Northpointe (i.e., the land described on Exhibit A) for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners and Residents and their successors in interest.

Section 2. Association Bound. Upon issuance of a Certificate of Incorporation by the Arizona Corporation Commission to the Association, the Covenants shall be binding upon and shall benefit the Association.

ARTICLE III

EASEMENTS AND RIGHTS OF ENJOYMENT IN COMMON AREAS

Section 1. Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Areas which 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 charge reasonable admission and other Special Use Fees for the use of any recreational or other facility situated upon the Common Areas. Fees shall be uniform among Members except as provided in Article VII, Section 3, of this Declaration.

(b) The right of the Association to suspend the voting rights and right to the use of the Common Areas by any Member (i) for any period during which any Assessment against his Lot remains delinquent; (ii) for a period not to exceed 60 days for any infraction of this Declaration, a Tract Declaration, the Northpointe Rules or applicable architectural regulations, and (iii) for successive 60-day periods if any such infraction is not corrected during any prior 60-day suspension period.

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association. Unless otherwise required by zoning stipulations or agreements with the City of Mesa effective prior to the date hereof or specified on a recorded subdivision plat, no such dedication or transfer shall be effective unless an instrument signed by the Owners of two-thirds (2/3) of the Memberships in each class of Members agreeing to such dedication or transfer has been recorded, except that the Board shall have authority to transfer to such public agencies, authorities or utilities, easements and rights-of-way which are intended to benefit Northpointe and which do not have any substantial adverse affect on the enjoyment of the Common Areas by the Members.

(d) The right of the Association to regulate the use of the Common Areas through the Northpointe Rules and to prohibit access to those Common Areas, such as landscaped rights-of-ways, not intended for use by the Members. The Northpointe Rules shall be intended, in the absolute discretion of the Board, to enhance the preservation of the Common Areas or the safety and convenience of the users thereof, or otherwise shall serve to promote the best interests of the Owners and Residents.

Section 2 Delegation of Use Any Member may, in accordance with this Declaration and the Northpointe Rules and the limitations therein contained, delegate his right of enjoyment in the Common Areas and facilities to the members of his family, his tenants or lessees, his guests or invitees or to his tenant's family, guests or invitees.

ARTICLE IV

LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

Section 1. Land Use Classifications. As portions of Northpointe are readied for development, the Land Use Classifications, restrictions, easements, rights-of-way and other matters, shall be fixed by Declarant in a Tract Declaration which shall be recorded for that portion of Northpointe. Any such Tract Declaration shall be constructed as a supplement to this Declaration and fully a part hereof for all purposes to the same extent as if all of the provisions thereof were set forth in this Declaration. The Land Use Classifications for Lots and Association Land established by a Tract Declaration shall not be changed except as specifically permitted by this Declaration. The contemplated Land use Classifications are as follows:

(a) Single Family Residential use.

(b) Cluster Residential Use, which shall consist of Lots with dwelling units intended for Single Family occupancy and may include those types of residential housing arrangements known as townhouses, clustered housing, duplexes, zero-lot line housing and similar arrangements, together with related areas intended for the use and enjoyment of the Owners and Residents of the Lots in the Cluster development.

(c) Residential Condominium Development Use.

(d) Association Use, including common areas, swimming pools, racquetball courts, parking and other recreational and related uses.

(e) General Public or Quasi-Public Uses approved by the Declarant

Unless otherwise specifically provided in this Declaration, the definitions and characteristics of such Land Use Classifications, and specific permitted and prohibited uses in such Classifications, shall be determined in the Tract Declaration and shall be within the complete discretion of the Declarant. All Tract Declarations shall be subject to applicable zoning laws.

Section 2. Covenants, Conditions, Restrictions and Easements Applicable to Lots Within All Land Use Classifications. The following covenants, conditions, restrictions and reservations of easements and rights shall apply to all Lots, the Owners and Lessees thereof, and all Residents, whether or not a Tract Declaration has been recorded on said property and regardless of the Lane Use Classification of such property.

(a) Architectural Control. No improvements (whether temporary or permanent), alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any property within Northpointe, or the improvements located thereon, from its natural or improved state existing on the date this Declaration is recorded shall be made or done without the prior approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered or made without the prior written approval of the Architectural Committee. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of Lots, shall be subject to the prior written approval of the Architectural Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Committee shall be made without the prior written approval of the Architectural Committee.

(b) Animals. No animal, bird, fowl, poultry or livestock, other than a reasonable number of generally recognized house or yard 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, bird, fowl, poultry or livestock shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structures for the care, housing or confinement of any animal, bird, fowl, poultry or livestock shall be maintained so as to be Visible From Neighboring Property, unless otherwise approved by the Architectural Committee. Upon the written request of any member or Resident, the Architectural Committee shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular. animal, bird, fowl, poultry or livestock is a generally recognized house or yard pet, whether such a pet is a nuisance or whether the number of animals or birds on any such property is reasonable. Any decision rendered by the Architectural Committee shall be enforceable in the same manner as other restrictions contained herein.

(c) Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of any structure on any property shall be removed immediately after the completion of construction.

(d) Maintenance of lawns and Plantings. Each Owner of a Lot shall keep all shrubs, trees, hedges, grass and plantings of every kind located on

(i) his Lot (including set back areas and Common Areas),

(ii) any other public right-of-way or easement area which abuts the Owner's Lot and which is located between the boundary line of his Lot and the paved area of any street, sidewalk, bike path or similar area; and

(iii) any non-street public right-of-way or easement area adjacent to his Lot, neatly trimmed, and shall keep all such areas properly cultivated and free of trash, weeds and other unsightly material; provided, however, that such Owner shall not be responsible for maintenance of any area over which (1) the Association assumes the responsibility in writing; (2) the Association has been given such responsibility by a Recorded instrument as provided in Article X, Section 1 of this Declaration; or (3) the City of Mesa assumes responsibility, for so long as the Association or the City of Mesa assumes or has such responsibility. The Architectural Committee may require landscaping by the Owner of all or any portion of an improved or developed Lot including the areas described in Subsections (i), (ii), and (iii) above.

(e) Nuisances; Construction Activities. No weeds, dead trees or plants, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit there from, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by the Architectural Committee. In addition, any construction equipment and building construction of improvements may be kept only in areas approved by the Architectural Committee, which may also require screening of the storage areas. The Architectural Committee in its sole discretion shall have the right to determine the existence of any such nuisance.

(f) Diseases and Insects. No saner shall permit any thing or condition to exist upon any lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

(g) Repair of Building. No building or structures on 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. In the event any building or structure is damaged or destroyed, then, subject to the approvals required by Subsection (a) above, such building or structure shall be immediately repaired, rebuilt or demolished.

(h) Antennas. No antenna, satellite receiving station or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any Lot, whether attached to a building or structure or otherwise, unless approved by the Architectural Committee.

(i) 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.

(j) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible from Neighboring Property except to make the same available for collection. All rubbish, trash and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

(k) 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 they are erected, placed or maintained exclusively within a fenced service yard or otherwise concealed and shall not be Visible From Neighboring Property.

(l) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except (i) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other improvements; or (ii) that which Declarant or the Association may require for the operation and maintenance of Northpointe.

(m) Signs. No signs whatsoever (including, but not limited to, commercial, political and similar signs) which are visible From Neighboring Property shall be erected or maintained on any Lot except:

(i) Signs required by legal proceedings.

(ii) Not more than two (2) identification signs for individual residences, each :with a face area of seventy-two (72) square inches or less.

(iii) Signs (including "for sale" and "for lease" signs) the nature, number and location of which have been approved in advance and in writing by the Architectural Committee.

(iv) Signs of builders on any Lot approved from time to time by Declarant as to number, size, colors, design, message content, location and type.

(v) Such other signs (including but not limited to construction job identification signs, builders signs, and subdivision signs) which are in conformance with the requirements of the City of Mesa and which have been approved in writing by the Architectural Committee as to size, colors, design, message content and location.

(n) Restriction on Further Subdivision Property Restrictions and Rezoning. 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 any easement or other interest therein, shall be conveyed or transferred by any owner, without the prior written approval of the Declarant or the Architectural Committee, which approval must be evidenced on the plat or other instrument creating the subdivision, easement or other interest. This provision shall not apply to transfers of an Ownership interest in the whole of any lot. Further, this provision shall not, in any way, limit Declarant from subdividing or separating into Lots any property at any time owned by Declarant and which has not previously been platted or subdivided. into Lots. No portion of a Lot less than the entire Lot, together with the improvements thereon, may be rented, and then only to a single family. No buildings or other permanent structures shall be constructed on any Lot until a Tract Declaration or further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any Lot without the provisions thereof having been first approved in writing by the Declarant or the Architectural Committee and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. No

application for rezoning of any Lot and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot has been approved by the Declarant or the Architectural Committee and the proposed use otherwise complies with this Declaration and any applicable Tract Declaration.

(o) Party Walls. Except as hereinafter provided, the rights and duties of Owners with respect to party walls or Party Fences between Lots shall be as follows:

(i) The Owners of contiguous Lots who have a Party Wall or Party Fence shall both equally have the right to use such Wall or Fence, provided that such use by one Owner does not interfere with the use and enjoyment of the same by the other Owner.

(ii) Except as provided below, the cost of reasonable repair and maintenance of a Party Wall or a Party Fence shall be shared equally by the adjoining Lot Owners.

(iii) In the event that any Party Wall or Party Fence is damaged or destroyed through the act or failure to act of an Owner or any of his tenants, lessees, agents, guests or members of his family, whether or not such act is negligent of such Owner to promptly rebuild and repair the Party Wall or Party Fence without cost to the Owner of the adjoining Lot. Any dispute over an Owner's liability for such damage shall be resolved as provided in Subsection (vi) below, but any liability imposed on an Owner hereunder shall not prevent the Owner from seeking indemnity therefor from the persons causing such damage.

(iv) In the event any Party Wall or Party Fence is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act or failure to act of an adjoining Owner, his tenants, lessees, agents guests or family, it shall be the obligation of all Owners whose Lots adjoin such Party Wall or Fence at their joint expense, such expense to be allocated among the Owners in accordance with the frontage of their Lots on the Party Wall or party Fence.

(v) Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any Party Wall or Party Fence without the Prior consent of all Owners of any interest therein, whether by way of easement or in fee.

(vi) In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Party Wall or party fence, or with respect to the sharing of the cost thereof, such adjoining Owners shall submit the dispute to the Board, the decision of which shall be binding.

Anything in the foregoing to the contract notwithstanding:

(vii) In the case of party Fences (1) between Common Areas and Lots, or (2) constructed by the Declarant or the association on Common Areas within a Lot, the Association shall be responsible for all maintenance thereof, subject to the provisions of Article X, Sections 2 and 3, except that each Owner of a Lot shall remain responsible for painting and maintaining the surfaces of the portion of the Party Fence facing his Lot and/or the portion thereof which is not a portion of the Common Areas, and

(viii) The provisions of this Subsection (o) shall not apply to any Party Wall which separates the interiors of two Dwelling units. The rights of the owners of such Dwelling Units. with respect to such party Walls shall be governed by the Tract Declaration or additional covenants or by plats to be recorded by the developer of the Dwelling Units.

(p) Perimeter Fences and Walls. Perimeter fences or walls along Higley, Adobe, Brown and 48th St., shall be maintained by the Association, subject to the provisions of Article X, Sections 2 and 3, except that each Owner of a Lot shall remain responsible for painting and maintaining the surface of the portion of the perimeter wall or fence facing his Lot. The Association shall be responsible for the maintenance of all landscaping outside the perimeter walls and fences, except any maintenance assumed by the City of Mesa.

(q) 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 Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures as approved by the Declarant or Architectural Committee, except for

(1) boxes on the ground for electrical or communication connections, junctions, transformers and other apparatus customarily used in connection with such underground lines, wires and other devices, and

(2) such above ground electrical apparatus as may be convenient or necessary reasonably on the well sites for the operation of the pumps and wells.

(r) Overhead Encroachments. No tree, shrub or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

(s) Trucks, Trailers, Cars and Boats. No motor vehicle classed by manufacturer rating as exceeding 1 ton, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or on any street in Northpointe so as to be Visible From Neighboring Property, the Common Areas or the Streets; provided, however, the provisions of this Section shall not apply to (i) pickup trucks of less than 1 ton capacity with camper shells not exceeding seven (7) feet in height measured from ground level and (ii) mini-motor homes not exceeding seven(7) feet in height and eighteen (18) feet in length which are parked as provided in Subsection (u) below.

(t) Motor Vehicles. No automobile, motorcycle, motor-bike or other motor vehicle shall be constructed, reconstructed or repaired upon any Lot or street in Northpointe and no inoperable vehicle may be stored or parked on any such Lot or Street, so as to be visible from Neighboring Property or to be visible from Common Areas or streets; provided, however, that the provisions of this Section shall not apply to (i) emergency vehicle repairs; (ii) temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Architectural Committee: (iii) vehicles parked in garages on Lots so long as such vehicles are in good operating condition and appearance and are not under repair ; (iv) the storage of such vehicles in an area designated for such purposes on a Tract Declaration or on a site plan approved by the Architectural Committee; and (v) non-commercial vehicle repair within a garage which is closed except as necessary for ingress and egress.

(u) Parking. It is the intent of the Declarant to restrict on street parking as much as possible. Vehicles of all owners and Residents, and of their employees, guests and invitees, are to be kept in garages, carports, residential driveways of the Owners and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles at a Lot; provided, however, this section shall not be construed to permit the parking in the above described areas of any vehicle whose parking on Northpointe is otherwise prohibited or the parking of any inoperable vehicle.

(v) Roofs. No solar panel, air conditioning unit, evaporative cooler or other apparatus, structure or object shall be placed on the roof of a Dwelling Unit except as permitted in this Subsection (v) without the Prior written consent of the Architectural Committee. Any solar panel, air conditioning unit,

evaporative cooler or other apparatus, structure or object which is placed or, the roof of a Dwelling Unit shall be mounted on the rear of the roof so that such apparatus or object is below the highest ridge on the roof and is not visible to a person six (6) feet tall standing anywhere on the curb or street in front of the Dwelling Unit.

(w) Right of Entry. During reasonable hours and upon reasonable notice to the Owner or other occupant of a Lot any member of the Architectural Committee, any member of the Board or any authorized representative of either of them, shall have their right to enter upon and inspect any Lot and the improvements thereon, except for the interior portions of any completed residence, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with and such persons shall not be deemed guilty of trespass by reason of such entry.

(x) Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant or by other developers or their duly authorized agents, of structures, improvements or signs necessary or convenient to the development or sale of property within Northpointe if those structures, improvements or signs have been approved by the Architectural Committee.

(y) Health, Safety and Welfare. In the event additional uses, activities and facilities are deemed by the Architectural Committee to be a nuisance or to adversely affect the health, safety or welfare of Owners and Residents, the Architectural Committee may make rules restricting or regulating their presence on Northpointe as part of the architectural rules and guidelines.

(z) Model Homes. The provisions of this Declaration and of Tract Declarations which prohibit nonresidential use of Lots and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction of residential dwellings on Northpointe and parking incidental to the visiting of such model homes so long as the location of such model homes and the opening and closing hours are approved by the Architectural Committee, and the construction, operation and maintenance of such model homes otherwise comply with all of the provisions of this Declaration. The Architectural Committee may also permit Lots and other areas to be used for parking in connection with the showing of model homes so long as such parking and parking areas are in compliance with the ordinances of the City of Mesa and any rules of the Architectural Committee.

(aa) Incidental Uses. The Declarant or the Architectural Committee may approve uses of property within a Land Use Classification which are incidental to the full enjoyment by the Owners of the property within that Land Use Classification. Such approval may be subject to such regulations, limitations and restrictions, including termination of the use, as the Declarant or Architectural Committee may wish to impose, in its sole discretion, for the benefit of Northpointe as a whole. By way of example and not of limitation, the uses which the Committee may permit are private roadways and streets within an area having a Land Use Classification of Cluster Residential Use of Condominium Development Use, tennis clubs and/or swimming clubs intended primarily for the benefit of all or certain Owners and Residents within areas having a Land Use Classification of Cluster Residential Use, Residential Condominium Development or Single Family Residential Use, a business office for the Association within an area having a Land Use Classification of Association Use, tennis courts, swimming pools and other recreational facilities intended for usage by the Residents or Owners of more than a single Lot within any area classified for residential use, and a sales, information and marketing center operated by the Declarant or other developers within an area having a Land Use Classification of Association use.

Section 3. Covenants, Conditions, Restrictions and Easements Applicable to Lots Within Single Family Residential Land Use Classification. The following covenants, conditions, restrictions and reservations of easements and rights shall apply only to Lots and the Owners and Residents thereof lying within a Single Family Land Use Classification:

(a) General. Property Classified as "Single Family Residential, under a Tract Declaration may be used only for the construction and occupancy of single family detached dwellings and typical residential activities incidental thereto, such as the construction and use of a family swimming pool, together with any common recreational facilities or any other common areas or amenities. All property within such Land Use Classification shall be used, improved and devoted exclusively to Single Family Residential use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any such property and no person shall enter into any lot for engaging in such uses, or for the purpose of receiving products or services arising out of such usage. No structure whatever, other than one private, single family residence, together with a private, single family residence, together with a private garage for cars and a guest house or servant quarters, shall be erected, placed or permitted to remain on any lot.

(b) Tenants. The entire Dwelling Unit on a Lot may be let to a single family tenant or lessee from time to time by the Owner subject to the provisions of this Declaration, the Northpointe Rules and any applicable architectural rules.

Section 4. Covenants, Conditions and Restrictions Applicable to Property Within a Residential Condominium Development Land Use Classification and a Cluster Residential Land Use Classification. The following covenants, conditions, restrictions and reservations of rights shall apply only to Dwelling Units and the Owners and Residents thereof lying within a Residential Condominium Development Land Use Classification. and a Cluster Residential Use Classification.

(a) General. Property classified as a "Residential Condominium Development" or "Cluster Residential Development" under a Tract Declaration may be used only for the construction and occupancy of Single Family Dwelling Units together with common recreational facilities and other common areas. All property within such Land use Classifications shall be used, improved and devoted exclusively to Single Family Residential Use. No gainful occupation, profession, trade or other non-residential use shall be conducted on any such property and no person shall enter into any Lot for engaging in such uses or for the purpose of receiving products or services arising out of such usage.

(b) Tenants. The entire Dwelling Unit may be let to a single family Tenant or lessee from time to time by the Owner subject to the provisions of this Declaration, the Northpointe Rules and any applicable architectural rules.

Section 5. Variances. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in Article IV of this Declaration or in any Tract Declaration if the Board determines in its discretion (a) either (i) that a restriction would create an unreasonable hardship or burden on an Owner or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete, and (b) that the activity permitted under the variance will not have any substantial adverse affect on the Owners and Residents of Northpointe and is consistent with the high quality of life intended for Residents of Northpointe.

ARTICLE V

ORGANIZATION OF ASSOCIATION

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

Section 2. Board of Directors and Officers. 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 the same may be amended from tine to time. The initial Board shall be composed of five (5) members. The Board may also appoint various committees and appoint a Manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the Manager. The Board's responsibilities shall include, but shall not be limited to, the following:

(a) administration, including administrative support as required by the Architectural Committee;

(b) preparing and administering an operation budget;

(c) establishing and administering an adequate reserve fund;

(d) scheduling and conducting the annual meeting and other meetings of the Members;

(e) collecting and enforcing the assessments;

(f) accounting functions and maintaining records;

(g) promulgation and enforcement of the Northpointe Rules;

(h) maintenance of the Common Areas; and

(i) all the other duties imposed upon the Board pursuant to this Declaration, the Bylaws, the Articles and the Northpointe Rules.

Section 3 . The Northpointe Rules and Architectural 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 the Northpointe Rules. The Northpointe Rules may restrict. and govern the use of any area by any Member or Resident, by the family of such Member, or by any invitee, licensee or tenant of such Member; provided, however, that the Northpointe Rules shall not discriminate among Members and shall not be inconsistent with this Declaration, the Articles or the Bylaws. In addition, from time to time and subject to the provisions of this Declaration, the Architectural Committee shall have the right to adopt, amend and repeal rules, regulations and guidelines; provided, however, that such rules and guidelines shall be fair and reasonable and shall be consistent with the provisions of this Declaration, the Articles and Bylaws. The authority granted herein to develop rules, regulations and guidelines by the Architectural Committee and the enforcement powers of this committee, are given for the purpose of insuring that this Northpointe is developed and used according to the general descriptions and intent as evidenced by this Declaration. The Architectural Committee is specifically responsible for the administration and enforcement of the provisions of Article IV of this Declaration; the administration and enforcement of the rules, regulations and guidelines promulgated by the Committee; and all other duties and obligations designated to such Committee by the Declaration, Articles, Bylaws and Northpointe Rules. Administrative support as required by the Architectural Committee shall be provided by the Board. Upon adoption, the Northpointe Rules and the architectural rules and guidelines shall have the same force and effect as if they were set forth in and were a part of this Declaration. In the event of any inconsistency between the rules and regulations adopted by the Board and those adopted by an Architectural Committee, the rules and regulations adopted by the Architectural Committee shall control.

Section 4. Personal Liability. No member of the Board or of any committee of the Association (including but not limited to the Architectural Committee), no officer of the Association and no Manager or other employee of the Association shall be personally liable to any Member or to any other person, including the Association, for any damage, loss or prejudice suffered to claimed on account of any act, omission, error or negligence of the Association, the Board, the Manager, any representative or employee of the Association or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this Section 4 shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

Section 5. Ancillary Associations. In the event any homeowners or similar association is to be formed by the developer of a parcel or subdivision on Northpointe, the articles of incorporation and bylaws or other governing documents for such association shall not be effective unless the contents thereof have been approved by the Association and the Architectural Committee and the governing documents specify that such association and the rights of its members are subject and subordinate to the provisions of this Declaration, the provisions of the Articles and Bylaws of the Association and the provisions of the Northpointe Rules and architectural rules and guidelines.

ARTICLE VI

MEMBERSHIPS AND VOTING

Section 1. Owners of Lots. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Each such owner shall have the following number of Memberships:

(a) One Membership for each Lot owned by the Member;

(b) In the case of the Owner of a parcel designated for Single Family Residential, Cluster Residential, or Condominium Development but as to which a plat horizontal property regime has not been recorded, one Membership for each Dwelling Unit permitted upon the parcel under the zoning or classification approved by the City of Mesa. If a site plan for the parcels subsequently approved by the governing Architectural Committee and the City of Mesa for a number of Dwelling Units different than the number of Dwelling Units assumed pursuant to the existing zoning categories, the number of Memberships will be adjusted, as to the portion of the parcel covered by the site plan and effective as of the date of adjustment, to reflect the actual number of Dwelling Units authorized by the site plan;

Each such Membership shall be appurtenant to and may not be separate from Ownership of the Lot or parcel to which the Membership is attributable. There shall be only one Membership for each Lot or each Dwelling Unit in a parcel, which Memberships shall be shared by any joint owners of, or owners of undivided interests in, a Lot or parcel.

Section 2. Declarant. The Declarant shall be a Member of the Association for so long as the Declarant holds a Class B Membership pursuant to Section 3 below or owns any Lot in Northpointe.

Section 3. Voting. The Association shall have two classes of voting Memberships:

Class A. Class A Memberships shall be all Memberships except the Class B Memberships held by the Declarant and other developers and each Owner shall be entitled to one vote for each Class A Membership held by the Owner, subject to the authority of the Board to suspend the voting rights of the Owner for violations of this Declaration in accordance with the provisions hereof.

Class B. The Class B Memberships shall be held only by the Declarant and any developers who are successors in interest to Declarant of more than 5 Lots or a parcel approved for 5 or more dwelling units under Section 1(b). The Declarant and said developers shall be entitled to three (3) votes for each Class B Membership owned. The Class B Memberships shall cease and be converted to Class A Memberships, on the basis of the number of Lots or approved dwelling units in a parcel per section 1 (b) owned by the Declarant and those developers, on the happening of the first of the following events

(a) When the total votes outstanding in the Class A Memberships equal the total votes outstanding in the Class B Memberships, or

(b) Fifteen (15) years from the date of the recording of this Declaration.

Section 5. Right to Vote. No change in the ownership of a Membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Membership must be cast as a unit; fractional votes shall not be allowed. In the event that a Membership is owned by more than one person or entity and such 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 Member casts a vote representing a certain Membership, it will thereafter be conclusively presumed for all purposes that he was acting, with the authority and consent of all other owners of the same Membership unless objection thereto is made at the time the vote is cast. In this event more than one vote is cast for a particular Membership, none of said votes shall be counted and all said votes shall be deemed void.

Section 6. Cumulative Voting for Board Members. In any election of the members of the Board or Architectural Committee, every owner of a Membership entitled to vote at such an election shall have the number of votes for each Membership equal to the number of directors or committee members to be elected, except that the Class B Members shall have the number of votes designated in Section 3 above times the number of directors or committee members to be elected. Each Member shall have the right to cumulate his votes for one candidate or to divide such votes among any member of the candidates. The candidates receiving the highest number of votes, up to the number of the Board or committee members to be elected, shall be deemed elected.

Section 7. Membership Rights. Each Member shall have the rights, dudes and obligations set forth in this Declaration and such other rights, duties and obligations as are set forth in the Articles and Bylaws, as the same may be amended from time

Section 8. Transfer of Membership. The rights and Obligations of the owner of a Class A .Membership in the Association shall not be assigned, transferred, pledged, designated, conveyed or alienated in any way except upon transfer of ownership to an Owner's Lot and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be effected by deed, in testate succession, or testamentary disposition, foreclosure of a mortgage of record or such other legal processes as now in effect or as may hereafter 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 the Memberships to the new Owner thereof.

ARTICLE VII

COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

Section 1. Creation Of Lien and Personal Obligation of Assessments and Maintenance Charges. The Declarant, for each Lot hereafter established within Northpointe hereby covenants and agrees, and each Owner 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 the Association the following assessments and charges: (1) Annual Assessments established by this Article VII, (2) Special Assessments for capital improvements or other extraordinary expenses or costs established by this Article VII and (3) Maintenance Charges established by Article X, Sections 2 and 3. All such Assessments shall be established and collected as hereinafter provided. The Annual Assessments, Special Assessments and Maintenance Charges together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing servitude and lien upon, the Lot against which each such Assessment is made. The Annual and Special Assessments against each Lot shall be based on the number of Memberships appurtenant to the Lot. Each such Annual and Special Assessments and Maintenance Charge, together with interest costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

Section 2. Annual Assessments. In order to provide for the uses and purposes specified in Article IX hereof, including the establishment of replacement and maintenance reserves, the Board in each year, commencing with the year in which the first Tract Declaration is recorded, shall assess against each Lot an Annual Assessment. The amount of the Annual Assessment, subject to the provisions of Section 4 hereof, shall be in the sole discretion of the Board but shall be determined with the objective of fulfilling the Association's obligations under this Declaration and providing for the uses and purposes specified in Article IX.

Section 3. Uniform Rate of Assessment. The amount of any Annual or Special Assessment against each Loy shall be fixed at a uniform rate per Membership, except that the following Owners shall pay only twenty-five percent (25%) of the Annual Assessment otherwise attributable to his or its Membership during the periods hereafter specified.

(a) The Owner of a Lot shall pay only twenty-five percent (25%) of the Annual Assessment attributable to his Membership until the earlier of (i) the completion of the first Dwelling Unit on the Lot or (ii) six (6) months from the commencement of construction of the first Dwelling Unit on the Lot.

(b) The Owner of a parcel which, under a Tract Declaration, is to be used as a Condominium Development (and for which the horizontal property regime has not been recorded) shall pay only twenty-five percent (25%) of the Annual Assessment otherwise attributable to each of his Memberships until a Condominium Development has either been completed on the Parcel or six (6) months have elapsed since construction of the Development was commenced.

(c) The Owner of a parcel which, under a Tract Declaration, has been classified as Single Family Residential or Cluster Residential (and which remains a parcel because it has not yet been subdivided.) shall pay only twenty-five percent (25%) of the Annual Assessment otherwise attributable to each of his Memberships.

Notwithstanding the foregoing, in the ,event that a parcel designated by a Tract Declaration for, Condominium Development is developed in distinctly separate phases, then with respect to each phase, the Owner shall pay only twenty-five percent (25%) of the Annual Assessments attributable to his membership until the earlier of (i) the completion of that phase or (ii) six (6) months from commencement of construction of that phase. :For purposes of this Section 3; a Dwelling Unit or other building shall be deemed completed when, in the opinion of the Board, the building is ready for occupancy. If the Owner of a parcel or Lot ceases to qualify for the reduced twenty-five (25%) rate during the period to which an Annual Assessment is attributable or the parcel ceases to be a parcel because it has been subdivided for Single Family Residential use, the Assessment attributable to the Membership shall be prorated between the applicable rates on the basis of the number of days in the period that the Owner qualified for each rate. Annual Assessments may be collected on a monthly, quarterly basis and Special Assessments may be collected as specified by the Board unless otherwise determined by the resolution of the, Members of the Association approving the Special Assessment.

Section 4. Maximum Annual Assessment. The Annual Assessment to be established by the Board may not exceed a certain amount, hereinafter referred to as the "Maximum Annual Assessment", which Maximum Annual Assessment shall be determined and shall vary in accordance with the following provisions:

(a) Until January 1 of the year following the recordation of the first Tract Declaration, the Maximum Annual Assessment against each Owner shall be FOUR HUNDRED FIFTY-SIX DOLLARS ($456 00) per each Membership.

(b) From and after January 1 of the year immediately following recordation of the first Tract Declaration and during such year, the Maximum Annual Assessment shall be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index as hereinafter defined. The Maximum Annual Assessment for each such period shall be computed by reference to the statistics published in the Monthly Labor Review by the United States Department of Labor, Bureau of Labor Statistics, designated "Consumer Price Index-U.S. City Average for Urban Wage Earners and Clerical Workers, 1967 Equals 100, All Items", hereinafter called the "Consumer Price Index" The Maximum Annual Assessment shall be computed by the following formula:

X = Consumer Price Index for September of the year immediately preceding the year of the First Annual Assessment.

Y = Consumer Price Index for September of the year immediately preceding the calendar year for which the Maximum Annual Assessment is to be determined.

$$\frac{Y}{X} \times \text{The initial Maximum Annual Assessment} = \text{The New Maximum Annual Assessment.}$$

If the Bureau of labor Statistics shall change the method of determining the Consumer Price Index, the formula for determining the Maximum Annual Assessment shall be altered or amended, if possible, so as to continue the base period and base figure, but in the event it shall be impossible to do so, or in the event the Bureau of Labor Statistics shall cease to publish the said statistical information and such information is not available from any other source, public or private, then and in any such events a new formula for determining the Maximum Annual Assessment shall be adopted by the Board.

(c) From and after January 1 of the year immediately following the recordation of the first Tract Declaration, the Maximum Annual Assessment may be increased above the Maximum Annual Assessment otherwise determined under Subsection (b) above by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called for such purpose. When an increase has thus been approved that same increase shall automatically be added to the Maximum Annual Assessment allotted for any subsequent year determined under (b) above.

Section 5. Special Assessments for Capital Improvements and Extraordinary Expenses In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment Period, a Special Assessment applicable to that period only 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 Association Land, including fixtures and personal property related thereto, or for the purpose of defraying other extraordinary expenses, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose, In connection with any such Special Assessment, Owners qualifying for paying only twenty-five (25%) of the Annual Assessment attributable to their Memberships pursuant to Section 3 above shall also b required to pay only twenty-five (25%) of the Special Assessment otherwise attributable to each such Membership. The provisions of this Section are not intended to preclude or limit the assessment, collection or use of Annual Assessments for the aforesaid purposes.

Section 6. Notice and Quorum for any Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 of this Article shall be sent to all Members no less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes (exclusive of suspended voting rights) of each class 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 (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Establishment of Annual Assessment Period. The period for which the Annual Assessment is to be levied (the "Assessment Period") shall be the calendar year, except that the First Assessment Period shall commence upon the filing of the first Tract Declaration and terminate on December 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period by recording with the County Recorder of Maricopa County, Arizona, an instrument specifying the new Assessment Period.

Section 8. Rules Regarding Billing and Collection Procedures. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making the Assessments provided herein and for the billing and collection of the Annual and Special Assessment and the Maintenance Charges imposed pursuant to Article X, Section 2 and 3, provided that said procedures are not inconsistent with the provisions hereof. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed or otherwise enforced until the Member has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement, at the address of the Member on the records of the Association, that the Assessment or any installment thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after the delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Membership changes during an Assessment Period; successor Owners of Lots or parcels shall be given credit for prepayments, on a prorated basis, made by prior Owners. In case the Owner of a Membership becomes liable for payment of an increased sum pursuant to Section 3 of this Article during the Assessment Period, he shall notify the Association but his failure to notify the Association shall not relieve him of the liability for such amounts. The amount of the Annual Assessment against Members who become such during an Assessment Period upon the recordation of a Tract Declaration shall be prorated and such new Members shall not be liable for any previously levied Special Assessments.

Section 9. Collection Costs and Interest on Delinquent Assessments. Any Assessment, maintenance charge or installment thereof not paid when due shall be deemed delinquent and shall bear interest from ten (10) days after the due date until paid at a rate equal to the greater of (a) twelve percent (120) per annum, or (b) the then prevailing interest rate on new loans guaranteed by the Veterans Administration, and the Member shall be liable for all costs, including attorneys' fees, which may be incurred by the Association in collecting the same. The applicable interest rate on delinquent Assessment and Maintenance Charges shall be determined on a daily basis. The Board may also record a Notice of Delinquency Assessment against any Lot or Parcel as to which an Assessment or Maintenance Charge is delinquent and constitutes a lien and may establish a filed fee to reimburse the Association for the Association's cost in recording such Notice, processing the delinquency and recording a notice of payment, which fixed fee shall be treated as a collection cost of the Association Secured by the Assessment Lien.

Section 10. Evidence of Payment of Annual and Special Assessments and Maintenance Charges. Upon receipt of a written request by a Member or any other person, the Association within a reasonable period of time thereafter shall issue to such Member or other person a written certificate stating (a) that all Annual costs and Special Assessments and Maintenance Charges (including interest, costs, and attorney's fees, if any, as provided in Section 9 above) have been paid with respect to any specified Lot or parcel as of the date of such certificate, or (b) if all Annual and Special Assessments and Maintenance Charges have not been paid, the amount of such Annual and Special Assessments and Maintenance Charges (including interest, costs and attorneys' fees, if any) due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matter therein stated as against any bona fide purchaser of, or lender on, the Lot or parcel in question.

ARTICLE VIII

ENFORCEMENT OF PAYMENT OF ANNUAL AND SPECIAL ASSESSMENTS AND MAINTENANCE CHARGES AND OF ASSESSMENT LIEN

Section 1. Association as Enforcing Body. The Association and its Architectural Committee, as the agent and representative of the Members, shall have the exclusive right to enforce the provisions of this Declaration. However, if the Association shall fail or refuse to enforce this Declaration or any provision hereof for an unreasonable period of time after written request to do so, then any Member may enforce them at his own expense by any appropriate action, whether in law or in equity.

Section 2. Association's Remedies to Enforce Payment of Annual and Special Assessments and Maintenance Charges. If any Member fails to pay the Annual or Special Assessments or installments when due, or to pay Maintenance Charges assessed pursuant to Article X, Sections 2 and 3, the Association may enforce the payment of the Annual or Special Assessments, Maintenance Charges and/or Assessment Lien by taking either or both of the following actions, concurrently or separately (and by exercising either of the remedies hereinafter set forth, the Association does not prejudice or waive it's right to exercise the other remedy)

(a) Bring an action at law and recover judgment against the Member personally obligated to pay the Annual or Special Assessments or the Maintenance Charges;

(b) Foreclose the Assessment Lien against the Lot or parcel in accordance with the then prevailing Arizona law relating to the foreclosure of realty mortgage (including the right to recover any deficiency), and the Lot or parcel may be redeemed after foreclosure sale as provided by law.

Notwithstanding subordination of an Assessment Lien as described in Section 3 of this Article VIII, the delinquent Member shall remain personally liable for the Assessments and related costs after his membership is terminated by foreclosure or deed in lieu or foreclosure or otherwise.

Section 3. Subordinate of Assessment Lien to First Mortgage or Deed of Trust; Priority of Lien. The Assessment Lien provided for herein shall be subordinate to any first mortgage lien held by, or first deed of trust of which the beneficiary is, a lender who has lent funds, with the Lot or parcel as security, or held by the lender's successors and assigns, and shall also be subject and subordinate to liens for taxes and other public

charges which by applicable law are expressly made superior. Except as above provided, the Assessment Lien shall be superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each Lot or parcel. Sale of transfer of any Lot or parcel shall not affect the Assessment Lien; provided, however, that if the sale or transfer is pursuant to foreclosure of a mortgage or a deed of trust to which the Assessment Lien is subordinate, or pursuant at the mortgage foreclosure or deed of trust of sale, or any grantee taking by deed in lieu of foreclosure, shall take the Lot or parcel free of the assessment Lien for all Annual and Special Assessments and Maintenance Charges that have accrued up to the date of issuance of a sheriff's or trustee's deed or deed in lieu of foreclosure; provided, however, that such mortgage or deed of trust foreclosure sale purchaser or grantee shall take subject to all Annual and Special Assessments, Maintenance Charges and the Assessment Lien therefor accruing subsequent to the date of issuance of a sheriff's or trustee's deed or deed given in lieu of foreclosure.

Section 4. Costs to be Borne by Member in Connection with Enforcement of Payment of Annual and Special Assessments and Maintenance Charges. In any action taken pursuant to Section 2 of this Article, the Member shall be personally liable for, and the Assessment Lien shall be deemed to secure the amount of, the Annual and Special Assessments and Maintenance Charges together with interest and the Association's collection costs and attorneys' fees, including those costs and fees specified in Article VII, Section 9.

ARTICLE IX

USE OF FUNDS: BORROWING POWER

Section 1. Purposes for Which Association's Funds May Be used. The Association shall apply all funds and property collected and received by it (including the Annual and Special Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of Northpointe and the Members and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any kind and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without Northpointe, which may be necessary desirable or beneficial to the pen=al common interests of Northpointe, the Members and the Residents. The following are some, but not all, of the areas

in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Members and Residents, maintenance of landscaping on Common Areas and Public right-of-way and drainage areas within Northpointe recreation, liability insurance, communications, transportation, health, utilities, public services, safety and indemnification of officers and directors of the association. The Association also may expend its funds under the laws of the State of Arizona or such municipality's charter.

Section 2. Borrowing Paper. The Association may borrow money in such amounts, at such rates, upon such terms and security, and for such periods of time as is necessary or appropriate.

Section 3. Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all the sums received by it in such year (whether by way of Annual or Special Assessments, fees or otherwise), and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of Annual Assessment in the succeeding year if a surplus exists from a prior year and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Section 4. Administration of Special Use Fees. The Association is authorized to bill for, sue for, collect, administer and disburse all Special Use Fees and the payment thereof shall be secured by the Assessment Lien.

Section 5. Insurance. The Association shall maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Areas or upon other areas maintained by the Association, of not less than One Million Dollars (1,000,000). In addition, the Association may carry any other insurance coverage which the board in its discretion deems necessary or desirable.

Section 6. Reserve Fund. From the Annual Assessments received by the Association, the Board shall establish an adequate reserve fund for the maintenance, repair and replacement of the Common Areas.

ARTICLE X

MAINTENANCE

Section 1. Common Areas and Public Right-of-Way. The Association, or its duly delegated representative, shall maintain and otherwise manage all Common Areas, including, but not limited to, the landscaping, walkways, parking areas, drives, recreational facilities and the roofs, interiors and exteriors of the buildings and structures located upon said properties; provided, however, the Association shall not be responsible for providing or maintaining the landscaping or structures on any Common Areas which are part of Lots unless (i) such landscaping or structures are available for use by all Owners and Residents or are within easements intended for the general benefit of Northpointe and (ii) the Association assumes in writing the responsibility as set forth in a recorded instrument as hereinafter provided. The Association shall also maintain any landscaping and other improvements not on Lots which are within the exterior boundaries of Northpointe, which are within areas shown on a subdivision plat or other plat of dedication for Northpointe or covered by a Tract Declaration and which are intended for the general benefit of the Owners and Residents of Northpointe, except the Association shall not maintain areas which (i) the City of Mesa or other governmental entity is maintaining, (ii) which an ancillary association is required under a Tract Declaration to maintain or (iii) are to be maintained by the Owners of a Lot pursuant to Article IV, Section 2(d) of this Declaration. Specific areas to be maintained by the Association may be identified on subdivision plats recorded or approved by the Declarant, in Tract Declarations and in deeds from the Declarant to a transferee of a Lot, but the failure to so identify such areas shall not affect the Association's rights or responsibilities with respect to such Common Areas and other areas intended for the general benefit of Northpointe. Notwithstanding anything to the contrary herein, the Board shall have discretion to enter into an agreement with the City of Mesa to permit the Association to upgrade and/or maintain landscaping on property owned by the City, whether or not such property is within Northpointe, if the Board determines such Agreement benefits the Association.

The Board shall use a reasonably high standard of care in providing for the repair, management and maintenance, of said property so that the Northpointe development will reflect a high grade of ownership. In this connection the Association may, subject to any applicable provisions on Special Assessments for capital improvements, in the discretion of the Board:

(a) Reconstruct, repair, replace or refinish any improvement or portion thereof upon Association Land;

(b) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of the Common Areas used as a road, street, walk, driveway or parking area, except that no permanent improvements shall be made by the Association on any Common Area that is not Association Land and the Association shall provide only maintenance on Common Areas which are not Association Land;

(c) Replace injured and diseased trees and other vegetation in any Common 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;

(d) Place and maintain upon any Common Area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof; and

(e) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Areas and the beauty thereof, in accordance with the general purposes specified in this Declaration.

The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of said properties shall be taken by the Board or by its duly delegated representative.

In the event any subdivision plat, Tract Declaration, deed restriction or this Declaration permits the Board to determine whether or not Owners of certain Lots will be responsible for maintenance of certain Common Areas or public right-of-way areas, the Board shall have the sole discretion to determine whether or not it would be in the best interest of the Owners and Residents of Northpointe for the Association or for an individual Owner or an ancillary association to be responsible for such maintenance, considering cost, uniformity of appearance, location and other factors deemed relevant by the Board. The Board may cause the Association to contract with others for the performance of the maintenance and other obligations of the Association under this Article X and, in order to promote uniformity and harmony of appearance, the Board may also cause the Association to contract to provide maintenance services to Owners of Lots having such responsibilities in exchange for the payment of such fees as the Association and Owner may agree upon.

Section 2. Assessment of Certain Costs of Maintenance and Repair of Common Areas and Public Areas. In the event that the need for maintenance or repair of Common Areas, structures and other property maintained by the Association is caused through the willful or negligent act of any Owner, Resident, or Member, or any family, guests, invitees or tenants of such persons, the cost of such maintenance or repairs shall be added to and become a part of the Assessment to which such Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien. Any charges or fees to be paid by the Owner of a Lot pursuant to Section 1 of this Article X in connection with a contract entered into by the Association with an Owner for the performance of an Owner's maintenance responsibilities shall also become a part of such Assessment and shall be secured by the Assessment Lien.

Section 3. Improper Maintenance and Use of Lots. 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 the surrounding Lots or other areas of Northpointe which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violated this Declaration or any Tract Declaration applicable thereto, or in the event the Owner of any Lot is failing to perform any of its obligations under this Declaration, any Tract Declaration, the Northpointe Rules or the architectural guidelines and standards of the Architectural Committee, the Board may be Resolution make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said 14-day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be added to and become a part of the Assessment to which the offending Owner and the Owner's Lot is subject and shall be secured by the Assessment Lien.

ARTICLE XI

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Establishment. An Architectural Committee is hereby established. It shall perform the functions set forth in this Declaration. The Committee shall adopt rules, regulations and guidelines for the performance of its duties including procedures for the preparation, submission and determination of

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the application for any approvals required by this Declaration or any Tract Declaration. The Architectural Committee shall have sole and exclusive authority with respect to all approvals and use decisions regarding, Residential Areas within Northpointe. The Architectural Committee shall consist of such number of regular members and alternate members as the Board may designate. During the first seven (7) years following the recordation of this document all members and alternates of the Committee shall be appointed by the Declarant. Thereafter the members of the Architectural Committee shall be elected by a vote of all the Memberships in the Association. Committee members shall be elected for one (1) year terms (or until replaced) at the same time as each annual election of the Board. In the event of a vacancy on the Committee, an alternate member selected by the Committee shall serve as a replacement. In the event of a vacancy after the initial 7 year period and an alternate member is not available, the vacancy shall be filled by a replacement appointed to serve by the Board until the next election. Owners or Residents need not possess any special qualifications of any type.

Section 2. Meetings; Guidelines. The Architectural Committee shall hold regular meetings and shall keep a record of the minutes of all meetings. A quorum for any such meeting shall consist of a majority of the regular members of the Committee and the concurrence of a majority of the committee members present at any meeting shall be necessary for any decision of the Architectural Committee. Alternate member(s) may participate at any meeting at which there is not a quorum of regular members present, may constitute a quorum by his (their) presence and shall have all of the authority of a regular member while so participating. The Architectural Committee shall promulgate rules, regulations and architectural guidelines and standards to be used in rendering its decisions. Subject to the provisions of Section 6 of this Article, the decision of the Architectural Committee shall be final on all matters submitted to it pursuant to this Declaration. Members of the Committee shall not be entitled to compensation for their services, unless otherwise approved by the Board.

Section 3. Discretion of Committees. The Architectural Committee shall be under no duty or obligation to pass upon, approve or disapprove any structural stability matter or matters pertaining to the stability of footings or foundations or matters pertaining to geological conditions involved in any foundation or footing; and may indicate on any plans or specifications or drawings or other materials or in any certificate that a Committee has not passed upon, approved or disapproved any such referred to matters. All actions of said Committee authorized under this Declaration, including without limitation the approval or disapproval

of plans, specifications, drawings, plot plans, grading plans and height, as well as other matters in which the Committee is authorized hereunder to act, shall be in the sole and complete discretion of said Committee.

Section 4. Response Within Thirty (30) Days. Any approval required under this Declaration by the Architectural Committee shall not be withheld unreasonably. Failure by the Committee to approve or disapprove a request within thirty (30) days after such request is filed with the Committee shall waive the approval requirement. Notice of disapproval shall be written and it shall set forth the reason or reasons for the disapproval. Notwithstanding Section 10 of Article XV, no request shall be deemed filed with the Committee until it is actually received.

Section 5. Committee's Certificate. Any approval of any plans and specifications or other matter by the Architectural Committee given or made pursuant to the provisions of this Declaration which is evidenced by a certificate signed by at least a majority of the members of the Committee shall be irrevocable and not subject to change by the Committee. Any such certificate may be conclusively relied upon by all parties including but not limited to any Owner, lessee or purchaser of any Lot or Residence, or of any interest therein; by any lender taking any Lot as security; and by any title insurance company. Any such certificate may be recorded by said Committee in the office of the County Recorder of said Maricopa County.

Section 6. Appeal to Courts. Any Owner or other Resident aggrieved by a decision of Architectural Committee may appeal the decision to the Superior Court of Arizona.

Section 7. Fee. The Board may establish a reasonable processing fee to defer the costs of the Association and the Architectural Committee in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted.

ARTICLE XII

RIGHTS AND POWERS OF ASSOCIATION

Section; 1. Association's Rights and Powers As Set Forth in Articles and Bylaws. In addition to the rights and powers of the Association set forth in this Declaration the Association shall have such rights and powers as are set forth in its Articles and Bylaws . Such rights and powers, subject to the approval thereof by any agencies or institutions deemed necessary by Declarant, may encompass any and all things which a natural person

could do or which now or hereafter may be authorized by laws, provided such Articles and Bylaws are not inconsistent with the provisions of this Declaration and are necessary, desirable or convenient for effectuating the purposes set forth in this Declaration. After incorporation of the Association, a copy of the articles and Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours.

Section 2. Association's Rights of Enforcement of Provisions of This and Other Instruments. The Association, as the agent and representative of the Owners and Members shall have the right to enforce the Covenants set forth in this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens or easements provided for in any contract, deed, declaration or other instrument which (a) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (b) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association or by Declarant. In the event suit is brought or arbitration is instituted or an attorney is retained by the Association to enforce the terms of this Declaration or other document as described in this Section 2 and the Association prevails, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith including but not limited to the Association's administrative costs and fees. Said attorneys' fees, costs and expenses shall be the personal liability of the breaching Owner and shall also be secured by the Assessment Lien against said Owner's Lot or Parcel.

Section 3. Contracts with Others for Performance of Association's Duties. Subject to the restrictions and limitations contained herein, the Association may enter into contracts and transactions with others, including the Declarant and its affiliated companies, and such contracts or transactions shall not be invalidated or in any way affected by the fact that one or more directors or officers of the Association or members of any committee are employed by or otherwise connected with Declarant or its affiliates, provided that the fact of such interest shall be disclosed or known to the other directors acting upon such contract or transaction, and provided further that the transaction or contract is fair and reasonable. Any such director, officer or committee member may be counted in determining the existence of a quorum at any meeting of the Board or committee of which he is a member which shall authorize any contract or transaction described above or grant or deny any approval sought by the Declarant, its affiliated companies or any competitor thereof and may vote thereat to authorize any such contract, transaction or approval with like force and effect as if he were not so interested.

Section 4. Chance of use of Association Land and Procedure Therefor. Upon (a) adoption of a resolution by the Board stating that in the Board's opinion the then present use of a designated part of the Association Land or of the Association's interest in other Common Areas is no longer in the best interests of the Owners and Residents and (b) the approval of such resolution by a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for such purpose, the Board shall have the power and right to change the use thereof (and in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), and provided such new use (ii) shall be consistent with any deed restrictions (or zoning regulations) restricting or limiting the use of the Association Land. Any construction, reconstruction, alteration or change of the building, structures and improvements on Association Land shall require the approval of the Architectural Committee.

ARTICLE XIII

TERM; AMENDMENTS; TERMINATION

Section 1. Term; Method of Termination. This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is recorded. From and after said date, this Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by the then Members casting eighty percent (85%) of the total votes cast at an election held for such purpose within six (6) months prior to the expiration of the initial effective period hereof or any ten (10) year extension. The Declaration may be terminated at any time if eighty percent (80%) of the votes cast by each class of Members shall be cast in favor of termination at an election held for such purpose. Anything in the foregoing to the contrary notwithstanding, no vote to terminate (or amend as provided in Section 2 below) this Declaration shall be effective unless and until written consent to such termination or amendment has been obtained, within a period from six (6) months prior to such vote to six (6) months after such vote, from the holders of Recorded first mortgages or deeds of trust to which the Assessment Lien is subordinate pursuant to Article VIII, Section 3 above, on seventy-five percent (75%) of the Lots and Parcels upon which there are such Recorded first mortgages and deeds of trust. If the necessary votes and consents are obtained, the Board shall cause to be recorded with

the County Recorder of Maricopa County, Arizona, a Certificate of Termination, duly signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association, with their signatures acknowledged. Thereupon these Covenants shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

Section 2. Amendments. This Declaration may be amended by recording with the County Recorder of Maricopa County, Arizona, a Certificate of Amendment, duly signed and acknowledged as required for a Certificate of Termination in Section 1 of this Article. The Certificate of Amendment shall set forth in full the amendment adopted, and, except as provided in Section 3 of this Article, shall certify that at an election duly called be held pursuant to the provisions of the Articles and Bylaws the Members casting seventy-five percent(75%) of the votes at the election voted affirmatively for the adoption of the amendment; provided, however, after twenty(20) years from the date of recordation of this Declaration, the affirmative vote of Members casting only seventy-five percent(75%) of the votes at a duly called election shall be necessary to amend this Declaration. A Tract Declaration may be amended in the same manner as this Declaration, with the approval of seventy-five percent(75%) of the votes attributable to the Owners of all Lots subject to the Tract Declaration and with the approval of the holders of seventy-five percent(75%) of the first mortgages and deeds of trust described in Article VIII, Section 3, on Lots subject to the Tract Declaration. Any amendment or termination of this Declaration or any Tract Declaration shall require the approval of the FHA or VA, as applicable, if such agency has guaranteed or insured any loan on a Lot subject to the Tract Declaration. The Declarant alone may amend or terminate this Declaration prior to the closing of a sale of any NorthPointe Lot.

Section 3. Right to Amendment if Requested by Governmental Agency of Federally Chartered Lending Institutions. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Declaration to such extent and with such language as may be requested by the Federal Housing Administration ("FHA"), the Veterans Administration ("VA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or the Federal National Mortgage Corporation ("FNNA") and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Declaration or by any federally charted lending institution (as a Condition

Precedent to lending funds upon the security of any Lot (s) or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of a Certificate of Amendment duly signed by or on behalf of the partners, authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the federal, state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon all of Northpointe and all persons having an interest therein. It is the desire of Declarant to retain control of the association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions or this Section deletes, diminishes or alters such control, Declarant shall. have the right to amend this Declaration otherwise than in, accordance with and pursuant to the provisions of Section 2 of this Article.

ARTICLE XIV

MISCELLANEOUS

Section 1. Interpretation of the Covenants. Except for judicial construction, the Association, by its Board and Architectural Committee, 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 association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by the Covenants and provisions hereof.

Section 2. 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 of the other provisions hereof.

Section 3. Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

Section 4. Rules and Regulations. In addition to the right to adopt rules and regulations on the matters expressly mentioned elsewhere in this Declaration, the Association (through its Board and Committees) shall have the right to adopt rules and regulations with respect to all other aspects of the Association's rights, activities and duties, provided said rules and revelations are not inconsistent with the provisions of this Declaration.

Section: 5. Declarant's Disclaimer of Representations. Anything to the contrary in this Declaration notwithstanding, and except as otherwise may be expressly set forth on a recorded plat or other instrument recorded in the office of the County Recorder of Maricopa County, Arizona, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Northpointe can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or if that land is once used for a particular use, such use will continue in effect.

Section 6. References to the Covenants in Deeds. Deeds or any instruments affecting any lot or any part of Northpointe may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-Owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

Section 7. Successors and Assigns of Declarant. Any reference in this Declaration to Declarant shall include any successors or assigns of Declarant's rights and powers hereunder.

Section 8. Gender and Number. Wherever the contest 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 in the singular shall include the plural; and words in the plural shall include the singular.

Section 9. 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 10. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four(24) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to such person at the address given by that person to the Association for the purpose of service of such notice or to the address of the lot of such person if no address has been given. Such address may be changed from time to time by notices in writing received by the Association. Notice to the Board or to an Architectural Committee may be delivered or mailed to the Declarant at the office of the Association.

Section 11. FHA/VA Approval. As long as there is a Class B Membership, the following action will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers and consolidations, mortgaging of Common Area, dedication of Common Area, dissolution and amendment of these Articles.

I

IN WITNESS WHEREOF, CARDON HOMES CORPORATION, an Arizona Corporation, as Declarant has hereunto caused its name to be signed by the signature if its duly authorized official as of the day and year first above written.

CARDON HOMES CORPORATION
Arizona Corporation

BY: Wynn W. Call
Its Vice President

STATE OF ARIZONA)
)ss.
County of Maricopa)

This instrument was acknowledged before me this 14th day of September, 1984, by Wynn W. Call as Vice President of CARDON HOMES CORPORATION, am Arizona Corporation.

Susan Jean Tonnemacher
Notary Public

Northpointe HOA
Recorded Documents List

Name	Doc Code	Recorded Date	Recorded #
Northpointe	Prop Rstr	5/9/84	84-0197783
Northpointe	Prop Rstr	5/9/84	84-0197784
Northpointe	Prop Rstr	9/25/84	84-0418907
Northpointe 1	Plat Map	5/31/84	84-0234925
Northpointe HOA	Deed	10/23/84	84-0460369
Northpointe HOA	War Deed	3/29/88	88-0143103
Northpointe I	Prop Rstr	5/31/84	84-0234926
Northpointe I	C Plat Dk	9/25/84	84-0418905
Northpointe I	Revocatn	10/10/84	84-0442104
Northpointe II	Plat Map	11/16/84	84-0498733
Northpointe II	Mod Rstr	12/18/85	85-0599045
Northpointe II AM	Plat Map	3/20/85	85-0122532
Northpointe II AM	Prop Rstr	3/28/85	85-0135416
Northpointe II AM	Md Rstr	4/23/85	85-0176295
Northpointe II Amend	C Plat Dk	4/13/87	87-0223082
Northpointe III	Plat Map	4/4/84	84-0140009
Northpointe III	Prop Rstr	4/4/84	84-0140010
Northpointe III	C Plat Dk	4/13/84	84-0155540
Northpointe III	Revcatn	10/10/84	84-0442105
Northpointe III Tracks A, B & C	Mod Rstr	10/5/84	84-0436247
Northpointe IV	Plat Map	2/26/85	85-0083627
Northpointe IV	Rtf Plat	4/17/85	85-0163734
Northpointe IV	Rtf Plat	4/17/85	85-0163735
Northpointe IV Lots 101-237	Prop Rstr	3/14/85	85-0107872