

Your Copy

**When recorded, return to:**

**Miraleste Shores Estates Homeowners Association  
P.O. Box 5426  
Parker, Arizona 85344**

**AMENDED AND RESTATED  
DECLARATION AND ESTABLISHMENT  
PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS  
MIRALESTE SHORES ESTATES**

THIS, AMENDED AND RESTATED DECLARATION AND ESTABLISHMENT PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS MIRALESTE SHORES ESTATES ("Declaration") is made and entered into as of the 20<sup>th</sup> day of March 2009, by Miraleste Shores Estates Homeowners Association, an Arizona nonprofit corporation ("Association").

**RECITALS**

A Declaration of Covenants, Conditions and Restrictions Miraleste Shores Estates was recorded on December 21, 1993 at Recording Number 93-05466, Official Records of La Paz County, Arizona, ("Original Declaration"); and

An Amendment Number 1 to Declaration and Establishment Protective Covenants, Conditions and Restrictions Miraleste Shores Estates was recorded on June 23, 1994 at Recording Number 94-03615, Official Records of La Paz County, Arizona, ("First Amendment"); and

Article V, Section 3 of the First Amendment provides that the Declaration may be amended at any time by an instrument signed by not less than a total of Seventy Five Percent (75%) of the Class A and Class B members as defined in Article X, Section 2 of the Declaration; and

The Association and the members who have expressed consent to this Declaration desire to amend, restate, replace and supersede all prior covenants, conditions and restrictions for Miraleste Shores Estates, including the Original Declaration and First Amendment, as referenced above, in order to update the covenants, conditions and restrictions in accordance with applicable Arizona law and statutes and to eliminate any ambiguity or confusion which might otherwise exist with respect to those covenants, conditions and restrictions pre-existing this Declaration; and

In accordance with applicable law, this Declaration has been amended by not less than Seventy Five Percent (75%) of the Class A and Class B members as defined in Article X, Section 2 of the Declaration as more fully set forth below and this Declaration shall become effective

upon recordation, copies of the written instrument approving this Declaration is attached hereto at Exhibit "B"; and

The property subject to this Declaration consists of the Common Area (as defined below) owned by the Association and that other certain real property located in the County of La Paz, State of Arizona, legally described as follows:

Lots 1 through 46, inclusive, MIRALESTE SHORES ESTATES, according to the Plat recorded in Document No. 93-4659, records of La Paz County, Arizona.

The foregoing real property, as contained on Exhibit "A", attached hereto, may be referred to collectively hereafter as the "Property"

NOW, THEREFORE, all previously recorded covenants, conditions and restrictions are amended and restated in their entirety to read as follows:

## **ARTICLE I**

### **DEFINITIONS**

1. "Association" means Miraleste Shores Estates Homeowners Association, the Arizona nonprofit corporation organized to administer and enforce the Community Documents and to exercise the rights, powers and duties set forth therein.
2. "Building site" means a single lot as shown on the plat (map) of said property or a parcel consisting of contiguous portions as any two or more contiguous lots, or all of one lot and parts of one or more lots adjacent thereof.
3. ACommunity Documents@ means this Declaration, including the Plat, and the Articles, Bylaws, Rules, and other documents validly adopted by the members or the Board of Directors for governance of the Association.
4. "Common Areas" shall mean all real property, together with all improvements and personal property and facilities situated thereon, which the Association owns in fee title or which the Association has maintenance obligations including, but not limited to, Lots 15 and 21, or unless otherwise set forth herein, unless the context indicates otherwise. Common Areas may also include areas that are used and owned by any utility or public agency, including easement reserved for private streets, drainage and utilities installation.
5. "Declarant" shall mean and refer to the owner of Miraleste Shores Estates and its successors and assigns.

6. ADeclaration@ means this Amended and Restated Declaration and Establishment Protective Covenants, Conditions and Restrictions Miraleste Shores Estates, as it may be amended from time to time, and where appropriate by context, the Plat.

7. "Owner" shall mean and refer to the record owner, whether one or more persons, trusts or business entities, partner of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) (collectively, "Person") to the fee simple interest of a Lot. Owner shall not include (i) Persons having an interest in a Lot merely as security for the performance of an obligation, or (ii) a lessee or tenant of a Lot. Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title to a Lot under which the seller is obligated to convey to the purchaser the remainder of seller=s title in the Lot, whether legal or equitable, upon payment in full of all monies due under the contract. The term A Owner@ shall not include a Purchaser under a purchase contract and receipt, escrow instructions or similar executory contract which is intended to control the rights and obligations of the parties to the executory contract pending the closing of a sale or purchase transaction. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to A.R.S. ' '33-801, et seq., the Trustor shall be deemed to be the Lot Owner.

8. "Properties" or "said property" shall mean and refer to that certain real property herein described on the plat and on Exhibit "A".

9. "Lot" means one of the numbered parcels of real property on the plat referred to herein and on Exhibit "A".

10. "Street" means any easement, street, highway or other thoroughfare shown on the map of said property, whether designated thereon as street, avenue, boulevard, place, drive, road, terrace, way, lane, circle or otherwise.

## ARTICLE II

### USE RESTRICTIONS

A. Use of Property. Except as set forth hereinafter, no building shall be erected, constructed, altered, maintained on any of said lots other than a residence for a single family

(including guests and household servants) with customary and suitable out buildings as permitted by law and the covenants and the restrictions herein stated. Lots 15 and 21 as those lots appear on the originally recorded Plat of the subdivision shall no longer be dedicated to residential use, but rather are hereby dedicated to use as "Common areas" as defined above. Lot 15 is hereby dedicated to use as the site for a community swimming pool and related amenities and Lot 21 is hereby dedicated for use as an entry way to the subdivision.

**B. Single Family Residential Use.** All Lots shall be used, improved and devoted exclusively to residential use by a Single Family. No gainful occupation, profession, trade or other nonresidential use shall be conducted on or in any Lot, but a Lot Owner or other resident may conduct a business activity within a Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Project; (iii) the business activity does not involve persons coming to the Lot or the door-to-door solicitation of Lot Owners or other residents in the Project; (iv) the trade or business does not use flammable liquids or hazardous materials in quantities not customary for residential use; and (v) the business activity is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of Lot Owners or other residents in the Project, as may be determined from time to time in the sole discretion of the Board of Directors. The terms *Abusiness@* and *Atrade@* as used in this Section shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider=s family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity. The leasing of a Lot by the Lot Owner thereof shall not be considered a trade or business within the meaning of this section.

**C. Location of Structures.** Construction of any and every nature shall be confined to and take place only within the building limits of each building site.

**D. Resubdivision of Lots.** None of the above described Lots shall be resubdivided or split into lots of a lesser size than the size of the original Lot.

E. **Height Limitations.** No fencing or landscaped materials shall be placed or allowed to grow upon any of the lots in such a manner as to substantially impair the view from adjacent lots.

F. **Changing Grades, Slopes and Drainages; Set Back and Sea-Wall.** No change in the established grade or elevations of said lots, and no change in the established slope or ratio of the cuts and fills, which alters established drainage patters shall be permitted without the prior written consent of the Declarant and without the prior written approval of the County of La Paz Building Department. For the purpose hereof, established drainage patters are defined as the drainage patters existing at the time the grading of said property was completed in conformity with the grading plan heretofore approved by the County of La Paz. No drainage shall be allowed to drain over any banks.

Each of the owners of the lots covenants to permit free access by owners of adjacent lots to slopes or drainage ways located on his property when such access is required for the maintenance of permanent stabilization of said slopes, or maintenance of the drainage facilities or for the protection and use of property other than the lot on which the slope or drainage is located.

The tract may well show a river line setback distance, designation or line. No building shall be constructed closer to the river than twenty feet (20') from the sea-wall.

Furthermore the sea-wall as presently constructed shall not be changed, modified, relocated or moved, except reasonable and necessary maintenance may be provided. Prior to the construction of any structure contiguous to the water side of any lot, there shall first be a plan for such construction reviewed and approved in writing by the Declarant and the U.S. Corps of Engineers, if approval by the Corps of Engineers is required.

G. **Equipment, Wells, Derricks and Mines.** No wells for the production of, or from which there is produced, water, oil, or gas shall be operated upon any lot; nor shall any machinery, appliance or structure be placed, operated or maintained thereon for the use in connection with any trading, manufacturing or repairing business. No mining or quarrying operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any lot.

H. **Nuisance and Non-Conformity.** No noxious or offensive trade or activity shall be carried on upon such property, nor shall anything be done thereon which may be or may

become any annoyance or nuisance to the owners or occupants of said property, including but not limited to the storage of any materials which might create an insect pest control problem, or a maintenance problem for any plant or landscape materials.

1. **Livestock.** No farm animals, livestock, or poultry of any kind shall be raised, bred or kept on said real property except, dogs, cats or other common household pets may be kept provided that they do not become a nuisance to the owners or occupants of neighboring properties. Pets must be kept within lot areas or on lease or tether when out of lot areas.
2. **Temporary Structures.** No tents, shacks, trailers, basement, garage or out-building shall at any time be used on any lot as a residence, either temporarily or permanently; nor shall any residence of a temporary character be constructed, placed or erected on any lot.
3. **Signs.** No signs of any kind, or other advertising device of any character, for any purpose or use whatsoever, shall be erected, posted, passed, painted, displayed or maintained on said property. Notwithstanding the foregoing and subject to any rules and regulations as may be adopted by the Association, the Association shall not prohibit: (a) the outdoor display of signs permitted under A.R.S. § 33-1808, as it may be amended from time to time; and (2) the indoor or outdoor display of a single for sale sign and a sign rider by a member on the member's Lot. The size of the for sale sign shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard sign rider, which shall not exceed six by twenty four inches.
4. **Upkeep of Real Property.** Each lot owner covenants to keep, maintain, water, plant and replant all areas, slopes, banks, rights of way, and set-back areas located on his lots so as to prevent erosion and to present an attractive, sightly and wholesome appearance at all times. Each owner shall also maintain, repair, replace and restore, at his own expense, all portions of his Lot. Each owner shall keep all portions of his Lot and all improvements thereon, clean and free from unsightly accumulations of trash and weeds and debris. The Board of Directors shall be the sole judge of the standard of maintenance or, in the absence of any

standard established by the Board of Directors, the standard of maintenance shall be that generally prevailing throughout the Properties.

5. **Vending of Liquor or Beverages.** No liquor or alcoholic beverages of any kind shall be sold on said lots.

6. **Storage of Minerals, Junk, Trash and Manure.** The storage of or accumulation of junk, trash, manure and other offensive or noxious materials is specifically prohibited. No burning shall be permitted except in fireplaces or barbecues.

7. **Lawful Use.** No immoral, improper, offensive, or unlawful use shall be made of any part of the Properties or Common Areas. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Project or Common Areas shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

I. **Diligence in Construction.** The work in constructing and erecting any building or structure shall be prosecuted diligently and continuously from the commencing thereof until the same is completed. No outbuildings shall be completed prior to the completion of the building, except that temporary office and storage buildings may be erected for workmen engaged in building a dwelling on said property. Such temporary buildings must be removed as soon as the dwelling is completed. All structures shall be suitably painted, colored or stained immediately upon construction as per plans and specifications. Construction of all buildings and structures must be completed within 1(one) year of commencement, unless the Association has granted a written extension.

J. **Easements and Rights of Way.** Said real property and the building sites included thereon is subject to such easements and right of way for erecting, constructing, maintaining and operating private streets, ingress and egress for maintenance and/or emergency vehicles, private sewers, collection lines, lift stations and force main, public utilities including water, cable television, lighting, poles, wires and conduits for lighting, heating, power, telephone, television and any other method of conducting and performing any public or quasi-public utility services or function beneath the surface of the ground, as such easement and rights of way are more particularly set forth on said map.

**K. Lot Easements in Favor of Association.** The Lots and all improvements thereon are hereby made subject to the following easements in favor of the Association and its Board of Directors, officers, agents, employees and independent contractors:

1. For inspection of the exterior of all Lot Improvements in order to verify the performance by Lot Owners of all items of maintenance and repair for which they are responsible.

2. For inspection, maintenance, repair and replacement of the Common Areas, including those portions of the Lot for which the Association has maintenance, repair or replacement obligations pursuant to this Declaration.

3. For correction of emergency conditions on one or more Lots or casualties to the Common Areas, or the Lots.

4. For the purpose of enabling the Association, the Board of Directors or any committees appointed by the Board of Directors to exercise and discharge their respective rights, powers and duties under the Community Documents.

5. For inspection, at reasonable times and upon reasonable notice to the Lot Owner, of the Lots to verify that the provisions of the Community Documents are being complied with by the Lot Owners, their guests, lessees, invitees and the other occupants of the Lot.

### **ARTICLE III**

#### **ARCHITECTURAL STANDARDS AND CONTROLS**

**A. Plan for Development.** Prior to applying to appropriate local government entities for approval, each owner of a lot in said property desiring to construct any building on such lot must first submit a plan to and obtain written approval for such construction and development from the Association.

1. **Location on Lots.** The location of the structure or structures on the building site and landscaping shall bear such an overall relation to the adjacent properties as to create an aesthetically pleasing overall appearance and to maintain views. Buildings shall be placed only on the major pad area as shown



2. **Fences.** All fences, including the location, style, material, color, height, and function thereof, shall be subject to the written approval of the Association prior to installation thereof. The owner will maintain and keep in good condition and repair the fences located on his building site.
3. **Type and Character of Design.** The type and design of all buildings shall be consistent or compatible with the surrounding esthetics and character of the subdivision, and shall be subject to approval by the Association. Decisions of the Association shall be final.
4. **Colors.** All exterior colors, textures and materials, including roofs, must be set forth in the plan and be approved in writing by the Association prior to construction. Color samples shall be submitted with plans and specifications which said plans and specifications shall be coded or marked so as to indicate where the colors are to be used upon the finished dwelling.
5. **Size Requirements.** The total ground floor areas of any residence exclusive of porches, garages, patios, exterior stairways and landings shall be compatible with the ground floor area of comparable residences within the subdivision, as determined in its sole discretion of the Association. The residence area for all river lots (that is those adjacent to the river) shall be a minimum 3000 square feet. For all other lots, the minimum residence area shall be 1500 square feet.
6. **New Materials Only and New Structures Only.** No secondhand materials except décor items shall be used in the construction of any building or structure without the prior written approval of the Association, and all buildings and fences which are of frame construction shall be painted or stained with at least two coats upon completion.
7. **Height Limitations.** No building shall be of more than two stories or two levels. On the lots where site conditions warrant, multi-level, multi-story or split-level floor plans may be considered. Balconies or decks shall be no higher than floor level. No building shall be higher than 28 feet as measured from the center of the lot at the curb of the street. Lots 27 thru 33 are granted an exception to allow up to 35 feet in height.

8. **Painting.** All exterior wood and manufactured surfaces with the exception of brick wall shall be painted or stained.

9. **Alterations, Additions, Remodeling, Redecoration of Exterior Portion of Structures.** No alterations in the exterior design or color of any structure or landscaping, including additions, shall be made without the prior written approval of the Association. The materials used for any such approved alteration must harmonize and compliment the original building or buildings and landscaping and must be approved in writing prior to such alteration. No approval is required to re-paint or re-stain any structure with the same color scheme as previously used and approved.

B. **Architectural Rules.** The Board may adopt architectural rules and guidelines regarding all aspects of construction, improvement, alteration and modification of any improvements and landscaping on the Lots to the extent such rules and guidelines do not conflict with this Declaration.

C. **Architectural Committee.** The Board may appoint an Architectural Committee, consisting of up to three Owners, to consider and approve, or disapprove in writing those plans and designs as may be submitted. The Board of Directors may remove and replace members of the Architectural Committee. In the event of resignation, removal or death of any member of said Committee, the remaining members shall have full authority to approve such design, or to designate a representative with like authority. In the event of vacancy of all members of Committee, the Board reserves the right to either appoint one or more replacement members or act as the Architectural Committee. Members of the Architectural Committee shall not be entitled to any compensation from any other owners for services performed pursuant to this covenant.

D.

E. **Enforcement.**

1. **Inspection and Conformity to Plans.** During and after completion of construction, the Association or any agent, assignee or designee may, from time to time, at any reasonable hour or hours, with reasonable notice, enter into and

inspect any property subject to this Declaration as to compliance with the approved submittals. Deviations shall be diligently guarded against, and all such deviations or non-conformities set forth in any notice of non-compliance issued by the Association shall be correct prior to final acceptance as set forth below. The Association, or designee or any agent or officer thereof, acting in good faith shall not be deemed guilty of, or become liable for, any manner of trespass for such entry or inspection.

2. **Final Acceptance.** The owner of each building site agrees that he will not commence using the structure or structures on the building site until final acceptance from the Association has been obtained in writing.

3. **Enforcement.** In the event of the failure of any owner of a building site to comply with any notice of non-compliance or directive or order from the Association, then in such event, the Association shall have the right and authority, after reasonable notice, to enjoin said failure to comply or to perform the subject matter of such directive or order, and the costs of the performance thereof shall be charged to such owner and may be recovered by the Association, in an action at law against such owner. All attorneys' fee and Court costs incurred in connection with any action to enforce this provision shall be recoverable by the party bringing such enforcement action.

4. **Boat Docks and Sea-Wall.** Prior to any harboring or mooring facilities within the water way of the Colorado River, each Owner of a lot in said subdivision desiring to construct within the water area shall submit plans and obtain written permission or approval from the Association and the Corps of Engineers, who shall determine, settle and approve requirements for such construction. There shall be no vertical poles, pipings, coverings or other permanent obstructions, covers or shades over the floor level and usual railing of any boat dock.

**ARTICLE IV**  
**SPECIAL CONDITIONS**

**Section 1.**

1. **Duties of Association.** Except to the extent limited in this Declaration, the Association shall maintain the Common Areas and may, at any time, as to any Common Area conveyed, leased, or transferred to it, or otherwise placed under its jurisdiction, in the discretion of the Board, without any approval of the Owners being required:

(A) Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area) in accordance with (a) the last plans thereof approved by the Board, (b) the original plans for the improvement, or (c) if neither of the foregoing is applicable and if such improvement was previously in existence, then in accordance with the original design, finish in the same standard of construction of such improvement as the same previously existed. This includes, but is not limited to, payment for the operation and maintenance of certain utilities including the sewer collection line; lift stations; force main; street lights; asphalt streets and any curbs (private streets); common area landscaping and maintenance; electrical power and maintenance for the security gate; and the operation and maintenance of the community pool and its amenities.

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

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

(D) The Board shall be the sole judge as to the appropriate maintenance of the Common Area.

(E) No Improvement, excavation or work which in any way alters any portion of the Common Area or any landscaping thereon from its natural or

existing state shall be made or done by any Person other than the Association or its duly authorized agents.

(F) Maintenance personnel employed or contracted by the Association shall not perform duties for any Owner while on duty as an employee or contractor of the Association.

(G) Even if maintenance or repair of a Common Area might otherwise be the obligation of the Association, if the maintenance or repair is necessitated through the willful or negligent act of an Owner or any of the Owner's guests, Lessees, licenses, invitees, agents or family members, the cost of such maintenance or repair shall be added to and become a part of the Assessment to which such Lot Owner is subject.

(H) The Association shall, on an annual basis, establish an assessment to be paid monthly by each lot owner to adequately maintain and pay for operation of such benefits. This assessment may include, at the discretion of the Board of Directors of the Association, an amount which will be intended to represent contribution toward a "reserve fund" which may be maintained by the Association to pay for unforeseen or major items of maintenance which may from time to time be necessary. Each lot owner will pay the monthly user fee chargeable by the applicable sewer treatment operator servicing the subdivision. The Association will pay any sewage treatment charges applicable to the Common areas.

2. **Individual Responsibilities.** Each owner has the individual responsibility for all utilities servicing their lot including, without limitation, installation of electrical service; water service; telephone service; sewer lateral services; cable TV; and each individual owner shall pay the monthly or periodic charges for such services including trash or garbage pick-up and sewage treatment.

3. **Assessments.**

A. **Creation of Lien and Personal Obligation.** Each Owner and member, by acceptance of a deed or other conveyance of an interest in a Lot, is deemed to covenant and agree to pay to the Association assessments as may be

imposed in accordance with this Declaration or the Bylaws. The assessments, together with interest thereon, late charges, attorneys' fees and court costs, and other costs of collection thereof, as hereinafter provided, shall be the personal obligation of the Owner as well a continuing lien upon such Owner's Lot against which the assessments are made.

**B. Effect of Nonpayment of Assessments.** Any Assessment, or any installment of an Assessment, which is not paid within fifteen (15) days after the Assessment first became due, shall be deemed delinquent and shall bear interest from the date of the delinquency at the rate of ten percent (10%) per annum. In addition to interest, the Board of Directors shall impose a monthly late charge for the late payment of Assessments of the greater of fifteen dollars (\$15.00) or ten percent (10%) of the unpaid Assessment or installment thereof that is deemed delinquent. The Association shall have the right, at its option, to enforce collection of any delinquent assessments, together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (i) bringing an action at law against the Owner personally obligated to pay the delinquent assessments and such action may be brought without waiving the assessment lien securing payment of the delinquent assessments; or (ii) bringing an action to foreclosure the assessment lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

**C. No offsets.** All assessments, monetary penalties and other fees and charges shall be payable in accordance with the provisions of this Declaration, and no offsets against such Assessments, monetary penalties and other fees and charges shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Community Documents or under Arizona law.

**ARTICLE V**  
**GENERAL PROVISIONS**

**Section 1.**

**Enforcement.** The Association, or any Owner, shall have the right, but not the obligation, to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of the Community Documents. Failure by the Association or by any Lot Owner to enforce any covenant or restriction contained in the Community Documents shall in no event be deemed a waiver of the right to do so thereafter. Each Lot Owner shall be subject to all rights and duties assigned to Owners under this Declaration. In the event the Association employs an attorney or attorneys to enforce an assessment lien or to collect any amounts due from an Owner to enforce compliance with or recover damages for any violation or noncompliance with the Community Documents, whether or not litigation is filed, the Association shall be entitled to recover from the Owner all of its attorney fees and costs, including expert fees, incurred. Likewise, if any Owner brings an action against another Owner to enforce compliance with or recover damages for any violation or noncompliance with the Community Documents, the prevailing party in such action shall be entitled to recover from the other party his reasonable attorney fees and costs, including expert fees incurred in the action.

**Section 2.**

**Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3.**

**Binding Effect and Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended, at any time, by the written consent of not less than Seventy-five Percent (75%) of the Class A members entitled to cast votes as defined in Article VIII, Section 2.

**Section 4.**

**Laws, Ordinances and Regulations.** The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the

approval of the Association with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation to also comply with all applicable laws, ordinances and regulations. Any violation of any State, Federal, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

**Section 5.**

**Construction.** In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, or the Rules, the provisions of this Declaration shall prevail. The order of priority in interpreting the other Community Documents shall be in the following order: Declaration, Articles, Bylaws and Rules.

**ARTICLE VI**

**BREACH**

A. The covenants hereby established shall operate as covenants running with the land; and, further, the Association, in the event of a breach of any said restrictions and covenants or continuance of any such breach shall, by appropriate legal proceedings, take steps to enjoin, abate or remedy the same. It is hereby agreed that damages are not an adequate remedy for such breach.

B. Every act or omission whereby any of the covenants contained in this Declaration are violated in whole or in part is hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable and may be exercised by Declarant, its assignee, or designee, or the owner of any real property described herein.

C. The remedies herein provided for breach of the covenants contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

D. A breach of the covenants contained in this Declaration shall not effect or impair the lien or charge of any bona fide mortgage or deed of trust made in good faith and for value on any building site; provided, however, that any subsequent owner of such property shall be bound



by said covenants, whether such owner's title was acquired by foreclosure or deed or in lieu of foreclosure or trustee sale.

## **ARTICLE VII**

### **SINGULAR INCLUDES PLURAL**

The singular shall include the plural, and the masculine the feminine, whenever the context herein so requires.

## **ARTICLE VIII**

### **PROPERTY RIGHTS AND MEMBERSHIP**

#### **Section 1.**

By acceptance of a deed or by acquiring any ownership interest in any portion of the Project, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, easements, rules, and regulations now or hereafter imposed by the Community Documents and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that the Community Documents set forth a general scheme for the improvement and development of the real property covered hereby and hereby evidences his interest that all the restrictions, conditions, covenants, easements, rules and regulations contained in the Community Documents shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Person fully understands and acknowledges that the Community Documents shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. Each Owner covenants and agrees that the Lots and the membership in the Association and the other rights created by the Community Documents shall not be separated or separately conveyed and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

#### **Section 2.**

**Voting Rights.** The Owners shall have one class of voting membership:

**Class A:** Class A members shall be Owners and shall be entitled to one vote for each Lot owned. Ownership of a Lot shall entitle the Owner thereof to one (1) vote. When more than one Person holds an interest in any Lot, only one Person shall be the member who is entitled to vote.

The votes for each such Lot must be cast as a unit and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners cast a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot. In the event more than one (1) vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

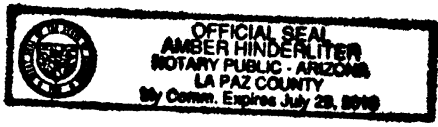
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IN WITNESS WHEREOF, the President of the Association has executed this Declaration on the 6 day of JULY, 2009.

Ray Prasuch V.P.  
President

STATE OF ARIZONA )  
County of La Paz ) ss.

The foregoing instrument was acknowledged before me this 6 day of July 2009 2009, by the <sup>Vice President</sup> President of Miraleste Shores Estates Homeowners Association, known to me to be the persons so identified.



Amber Hinderliter  
Notary Public

My Commission Expires:  
July 29, 2010

**EXHIBIT "A"**

Lots 1 through 48, inclusive, MIRALETE SHORES ESTATES, according to the Plat recorded in Document No. 93-4659, records of La Paz County, Arizona.

## Amendment "A"

### USE RESTRICTIONS

**Leases.** No Lot shall be used for transient or hotel purposes, nor shall an Owner enter into a lease for less than the entire Lot, including improvements. No Lot shall be leased for a period of less than six (6) months; and periods of less than six (6) months in duration shall be conclusively considered to be for transient or hotel purposes. Leases may not be assigned and no Lot may be subleased. All leases must be in writing, shall in all respects be subject to and in compliance with the provisions of the Declaration and the Community Documents, and shall expressly provide that a violation of any provision of the Community Documents shall be a default under such lease requiring the Owner to terminate the lease or to bring summary proceedings to evict the Lessees. Any Owner who leases a Lot shall deliver to the Lessees, prior to the start of the tenancy, a copy of the Community Documents. Upon request by the Association, each Owner shall deliver to the Association, a fully executed Lessee registration form, as may be established by the Board, a copy of the lease agreement, a signed acknowledgment that a copy of the Community Documents have been delivered to the Lessees, and a paperwork processing fee as may be established by the Board. The Board has the right to exclude any person, other than an Owner, who attempts to occupy a Lot or any portion thereof, who has not complied with the foregoing, or who attempts to holdover. The Board shall also be empowered to adopt leasing rules. Owners may apply for a hearing before the Board for temporary or special variances to this Section in case of hardship. Variances to this Section will be granted in the sole discretion of the Board of Directors.

Amendment “ B “

ARCHITECTURAL STANDARDS AND CONTROLS

**Grandfathering Provision.** To the extent any existing, but otherwise non-compliant improvements (including landscaping) on any Lot is otherwise in violation of any architectural rules, standards and guidelines promulgated by the Association, the same may be "grandfathered", but only to the extent the same is brought to the attention of the Board and the Board provided written confirmation that the otherwise non-conforming use is "grandfathered" and then only to the extent such proposed "grandfathered" use is not otherwise in violation as it existed prior to adoption of any architectural rules or guidelines. Upon the sale or conveyance of a Lot to a subsequent Owner, the grandfathered non-conforming use (whether landscaping or otherwise) shall be brought into compliance with the Community Documents, including, but not limited to, any current architectural rules, standards or guidelines, within thirty (30) days of the date of the conveyance.

## **Amendment "C"**

### **L. ENFORCEMENT**

In the event of the failure of any owner to comply with any notice of non-compliance or directive or order from the Association regarding any and all items (A-K) listed in this Article (Article II), then in such event, the Association shall have the right and authority, after notice, to enjoin said failure to comply or to perform the subject matter of such directive or order, and the costs of the performance thereof shall be charged to such owner and may be recovered by the Association, in an action at law against such owner. All attorneys' fees and Court costs incurred in connection with any action to enforce this provision shall be recoverable by the Association from the property owner.