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

**SHADOWS OF THE RIDGE AT EL CONQUISTADOR PHASE II LOTS 1 - 23**

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**DO NOT REMOVE  
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### RECITALS

WHEREAS, the Declaration of Covenants, Conditions and Restrictions Shadows of the Ridge at El Conquistador recorded on October 24, 1997 in Docket 10658 at page 214 in the official records of Pima County, Arizona ("Original Declaration"), in Article XI, Section 5, provides that its terms and conditions may be amended by Owners representing at least two-thirds (2/3) of the Lots;

WHEREAS, pursuant to A.R.S. §33-1817, the terms and provisions of the Original Declaration may be amended by the written consent of Owners;

NOW, THEREFORE, Owners representing at least two-thirds (2/3) of the Lots, by their written consent, have adopted the following Amended and Restated Declaration of Covenants, Conditions and Restrictions Shadows of the Ridge at El Conquistador Phase II Lots 1 - 23 which shall replace and supersede the Original Declaration, and shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each Owner thereof.

**AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
SHADOWS OF THE RIDGE AT EL CONQUISTADOR LOTS 1 - 23**

**ARTICLE I  
DEFINITIONS**

**Section 1.1 "Association"** shall mean and refer to Shadows of the Ridge Homeowners Association, an Arizona nonprofit corporation, its successors and assigns.

**Section 1.2. "Board"** shall mean the Board of Directors of the Association.

**Section 1.3. "Common Area"** shall mean all real property owned by the Association.

**Section 1.4. "Improvement" or "Improvements"** shall mean any and all land, other than interior modifications of existing structures, including, but not limited to structures, buildings, outbuildings, ramadas, garages, guest houses, storage sheds, play houses, swimming pools, walls, fencing, landscaping (other than within Individual Patio Areas), driveways, coolers, solar devices, and air conditioning units, whether intended to be temporary or permanent. It shall also include all changes or alterations to the exterior of any Lot, including changes in colors, whether for maintenance, repair or alterations.

**Section 1.5. "Individual Patio Area"** shall mean that area located in the front, sides and rear of each Lot which is enclosed or separated by a patio or decorative wall, or any area of a Lot that has been improved with pavers or other patio-surfacing material.

**Section 1.6. "Lot"** shall mean and refer to the numbered lots shown upon the Plat.

**Section 1.7. "Member"** shall mean a person or entity entitled to hold membership in the Association.

**Section 1.8. "Mortgage"** shall include mortgages, deeds of trust and recorded contracts for sale of real estate wherein the purchaser is entitled to possession of the subject property, and the term "Mortgagee" shall include mortgagees, beneficiaries under deeds of trust and holders of vested interests in recorded contracts for sale of real estate wherein the purchaser is entitled to possession of the subject property.

**Section 1.9. "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 1.10. "Property" or "Plat"** shall mean the real property legally described as Lots 1 - 23 and Common Areas 'A' and 'B', a subdivision of Pima County, Arizona, as shown on the plat recorded in Book 50 of Maps and Plats at page 37 in the official records of Pima County, Arizona.

**Section 1.11. "Single Family"** shall mean any number of persons related by blood, marriage or adoption, or no more than three (3) unrelated persons sharing a common household.

## ARTICLE II COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 2.1. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees in collecting same, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each assessment, together with interest, costs and reasonable attorney's fees in collecting same, shall also be the personal obligation of the person who was the owner of such Lot at the time when the assessment fell due.

**Section 2.2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

**Section 2.3. Annual Assessment.** The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and written notice thereof shall be sent to every Owner subject thereto. Annual Assessments may be collected on a monthly or quarterly basis as determined by the Board. The Association shall not impose an annual assessment that is more than twenty percent (20%) greater than the immediately preceding fiscal year's assessment without the approval of a majority of the Members.

**Section 2.4. Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or any unanticipated expense; provided, however, that any such assessment shall have the assent of two-thirds (2/3) of the Members.

**Section 2.5. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots except as to Lots 11 and 12 which shall be deemed one (1) Lot for purposes of assessments.

**Section 2.6. Effect of Nonpayment of Assessments.** Any assessment which is not paid within thirty (30) days after its due date shall be delinquent and subject to a late fee of ten percent (10%) of the amount of the unpaid assessment. No late fee may be imposed unless the Owner was provided with written notice of the date the assessment was due or written notice that the assessment is overdue. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot in conformance with A.R.S. §33-1807. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his or her Lot.

**Section 2.7. Subordination of Lien.** The Association's lien for assessments shall be subordinate to the lien of any mortgage or deed of trust made in good faith for value covering the same Property or a portion of the same Property against which said assessment or assessments are made, which mortgage or deed of trust is recorded prior to recordation of the claim for such assessment.

### **ARTICLE III ARCHITECTURAL CONTROL**

**Section 3.1. Approval Required.** Prior to making any Improvement, whether such Improvement be an initial Improvement or later alterations, modifications or other change of an Improvement, an Owner shall be required to obtain the written approval of the Association (or an architectural committee established for this purpose). An Owner shall submit two (2) complete sets of plans for proposed Improvements, specifications (including exterior color schemes) and plot plans which shall include location and floor elevations of dwellings and a building site grading plan (if applicable). Should the Association fail to act on any plans submitted by an Owner in conformance with this Section within sixty (60) days of receipt thereof, such plans shall be deemed approved.

**Section 3.2. No Changes from Plans.** No changes or deviations in or from any approved plans and specifications, insofar as the exterior of the proposed Improvements is concerned, shall be made without prior written approval of the Association. After construction is completed, no changes shall be made, including changes of exterior color, without the prior written approval of the Association.

**Section 3.3. Architectural Guidelines.** For the purpose of enforcing architectural control, the Association shall have the power to promulgate reasonable rules, regulations and restrictions regarding Improvements; to amend such rules, regulations and restrictions from time to time; and to waive or modify any such rules, regulations or restrictions, provided that no such waiver shall be deemed a waiver of the right to enforce such rules, regulations or restrictions in the future as to others; and provided, further, that any waiver or modification shall be consistent with the general plan for the improvement and development of the Property. Any waiver granted by the Association of such architectural guidelines shall be given in exchange for a hold harmless

agreement executed by the Owner who benefits from the waiver, and which runs to the benefit of the Association. Once adopted, such architectural guidelines shall have the same force and effect as this Amended and Restated Declaration.

**Section 3.4. Review Fee.** The Association shall have the authority to impose a reasonable fee upon each Owner at the time plans are submitted for approval. Said fee shall not exceed the amount necessary to reimburse the Association for payments made for architectural or other services remitted in connection with the plan approval process.

**Section 3.5. Minimum Criteria for Improvements.**

- (a) Be in accordance with the provisions of the Declaration;
- (b) The location, style of architecture, exterior color scheme, height, location of exterior lights, shall be in harmony with the general surroundings of the building or structure or proposed buildings or structures on any Lot subject to these covenants;
- (c) The type and placement of any roof-mounted heating, cooling, or refrigeration device shall be enclosed so as not to be visible from neighboring property;
- (d) The roof shall be of the material, style, and color compatible with the surroundings (reflective and white roofs shall not be permitted) and Owners shall be required to bring their roof into compliance with this provision when replacing/resealing a non-compliant roof. Flat roofs shall be fully enclosed by parapet walls;
- (f) Except as to Lot 10, no Lot shall have less than a one-car garage, which shall in no event be converted into living area by an Owner;
- (g) Adequate utility yards or enclosures in which any ground-mounted exterior heating and cooling apparatus, clothes lines, mechanical equipment, tanks and space for trash or rubbish containers and wood storage shall be located;
- (h) All electrical service and telephone lines from the utility company lines shall be placed underground and no outside electrical and telephone lines shall be placed overhead. This restriction prohibiting overhead lines also applies to cable television lines and security and fire protection system lines, if any;
- (i) All driveways shall be paved;
- (j) All exterior lights shall be located as not to be directed toward or reflect upon surrounding properties, rights-of-way, or Common Area.



**Section 3.6. No Liability.** The Association shall not be responsible for any defects, structural or otherwise, in the plans or specifications nor in any building or structure erected in accordance with the plans and specifications. The Association shall not be liable for damages or to anyone submitting plans for approval or to any Owner subject to this Declaration by reason of a mistake in judgment, negligence or nonfeasance. Owners, by taking title to Lots, waive any claim for these damages.

#### **ARTICLE IV PARTY WALLS**

The rights and duties of the Owners with respect to party walls shall be governed by the following:

**Section 4.1. General Rules of Law to Apply.** Each wall, including patio walls, which is constructed as a part of the original construction of the dwellings upon the Lots any part of which is placed on the dividing line between separate Lots shall constitute a party wall. With respect to any such wall, each of the adjoining property owners shall assume the burdens and be entitled to the benefits of these restrictive covenants, and to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

**Section 4.2. Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in a proportionate amount of fifty percent (50%) each.

**Section 4.3. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission.

**Section 4.4. Weatherproofing.** Notwithstanding any other provisions of this Article, any Owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 4.5. Right to Contribution Runs with the Land.** The right of any Owner to contribution from any other property owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 4.6. Consent.** In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his Lot in any manner which requires extension of, or the

alteration of, any party wall shall first obtain the written consent of the adjoining property owner in addition to the written approval of the Association pursuant to Section 3.1.

## **ARTICLE V MAINTENANCE**

**Section 5.1. By Association.** The Association shall be responsible for the control, maintenance and upkeep of the property and improvements in the Common Area and shall manage and maintain the Common Area. The Association shall be responsible for the maintenance and resurfacing of private subdivision streets. In the event of the Association's failure to maintain or resurface such streets, the Town of Oro Valley shall have the power and right, but not the obligation, to maintain and resurface such streets. Should the Town of Oro Valley do such maintenance and resurfacing, the individual lot owners shall be subject to assessment and collection of charges by the Town of Oro Valley for such work.

**Section 5.2. By Owners.** Maintenance, repair and upkeep of each Lot and the Improvements thereon shall be the sole responsibility of each Owner. Owner's responsibility of maintenance, repair and upkeep includes, but is not limited to, maintenance of exterior painting, roof, and all exterior surfaces, exterior lighting which is wired to the individual dwelling unit, light posts, and mail boxes. In the event an Owner fails to maintain his or her Lot in a manner in keeping with the general neighborhood, the Association, by its agents or employees, shall have the right but not the duty to enter upon the Lot and repair, maintain or restore the exterior of the Lot or Improvements thereon. The Board, by a two-thirds (2/3) vote, shall have the right in their sole discretion, to determine whether or not the exterior of a Lot or the Improvements thereon is in need of maintenance, repair, or upkeep in order to conform to the general neighborhood standard. In making that determination the Board shall consider the general neighborhood standard to be that standard which reflects a high pride of ownership for the Lots as a whole. Each Owner, by acceptance of a deed to a Lot, grants an easement to the Association for maintenance, upkeep and repair which may be occasioned by this paragraph and agrees to pay all costs thereof which shall be added to and become a part of the assessment to which such Lot is subject.

### **Section 5.3. Landscape Maintenance.**

**5.3.1. By Association.** The Association shall be solely responsible for the maintenance of landscaping on the Common Area and those portions of Lots outside of Individual Patio Areas. The Association's responsibility for maintaining landscaping on the Lots shall be limited to, at a minimum, seasonal trimming and debris removal. The Association shall be released from any claims, demands, or liabilities which may be asserted relating in any way to such landscaping or the maintenance thereof, including any claims for personal injury or property damage or for loss of such landscaping or vegetation.

**5.3.2. By Owner.** Each Owner shall be responsible for planting and maintenance of his or

her Individual Patio Area and is prohibited from planting or erecting any structure or decorative item upon Common Area or upon any portion of his or her Lot outside of the Individual Patio Area without the prior written approval of the Association.

**5.4. Damage to Common Area.** In the event that the need for maintenance or repair to the Common Area is caused through the willful or negligent act of an Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which his/her Lot is subject.

## **ARTICLE VI USE RESTRICTIONS**

**Section 6.1. No temporary Structures.** All buildings and structures erected upon said premises shall be of new construction and no buildings or structures shall be moved from other locations onto said premises. No structure of a temporary character, including, but not limited to a trailer, tent, shack, garage, barn or other outbuilding shall be used on any portion of the premises at any time as a residence either temporarily or permanently. No mobile home, manufactured home, multi-sectional manufactured home, modular home or similar unit shall be placed on any Lot.

**Section 6.2. Animals.** No animals, birds or fowl of any kind other than customary domesticated household pets shall be kept or maintained on any Lot and provided that domesticated household pets may not be kept, bred or maintained for any commercial purposes. In no event, however, are more than two (2) dogs and/or cats more than ten (10) weeks old permitted. The Association shall have the right to order the removal from any Lot of any animals, birds, or fowl which may be objectionable to any residents on a neighboring Lot and the owner of said animals, birds or fowl must immediately remove same from the premises upon receipt of notice from the Association. No horses, mules or donkeys shall be kept on the Property.

**Section 6.3. Signs.** No signs shall be erected, placed or permitted to remain on any Lot except the following: (i) a residential "For Lease" or "For Sale" sign of industry standard size; (ii) political signs as set forth in A.R.S. §33-1808; (iii) signs as are required by legal proceedings; and (iv) such other signs as may be approved by the Association.

**Section 6.4. Nuisance.** No Lot shall be used in whole or part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will be obnoxious or otherwise create an unclean or untidy appearance. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done, placed or stored thereon which may become an annoyance, nuisance or danger to the community or occasion any noise or odor which might or will disturb the peace, quiet, comfort or serenity of the occupants of surrounding Lots.

**Section 6.5. Drainage.** There shall be no interference with the established drainage

pattern over any of the Property unless adequate provision is made for proper drainage conforming to rules, regulations, ordinances, and drainage criteria. For purposes hereof, "established drainage" is defined as the drainage which exists at the time the overall grading of the Property is completed, or which is shown on any plans conforming to rules, regulations, ordinances, and drainage criteria.

**Section 6.6. Unsightly Articles.** No unsightly articles shall be permitted to remain so as to be visible from adjoining Lots or from the street. All clotheslines, equipment, service yards, woodpiles, or storage piles, and similar items shall be kept screened by approved adequate planting or fencing so as to conceal them from view of neighboring Lots and streets.

**Section 6.7. Trash.** All equipment for the storage or disposal of garbage or other waste shall be kept in a clean and sanitary condition and shall not be kept in view of any Lot or street except for a reasonable amount of time (not more than twenty-four (24) hours) for the purpose of collection. All rubbish, trash, or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. Each Owner shall be responsible for payment of the cost of all trash collection and recycling services; provided, however, that the Association shall have the right to require that Owners contract for such services with a single vendor selected by the Board.

**Section 6.8. Residential Use.** All Lots shall be used for residential purposes by a Single Family. No business of any nature shall be conducted on any Lot; provided, however, that a home occupation shall be allowed under the following conditions: (i) it is not detectable by sight, sound or smell; (ii) it is contained wholly within a residence; (iii) it does not involve frequent or annoying traffic by persons coming on the Property; and (iv) it does not create noise, inconvenience, or disturbance to other residents of the Property. Estate sales shall be permitted with the prior written approval of the Association which may place reasonable conditions upon such sales.

**Section 6.9. Alterations to Grounds.** Except in the Individual Patio Areas, no planting or gardening of any type shall be done by an Owner, and no fences, hedges or walls shall be erected or maintained upon a Lot except those which were installed as part of the original development of the Property or approved in writing by the Association. In no event shall trees or plants of any kind be placed in such a way that, initially or at maturity, a view of either the City of Tucson or the Santa Catalina mountains is blocked by said plantings as determined by solely by the Board.

**Section 6.10. Parking.**

- A. No vehicle shall be kept or stored upon any Lot other than vehicles primarily used for the transportation of persons. Vehicles shall be stored in an enclosed garage when not in use (Lot 10 is excluded from this requirement) and garage doors shall be closed except for the purpose of ingress and egress.
- B. Except as set forth in A.R.S. §33-1809 (with respect to public service and safety

vehicles) and subsection E of this Section 6.10, no vehicle owned or in the possession or under the control of any resident shall be parked overnight on any street within the subdivision without the prior written approval of the Board.

- C. No vehicle of any type (including motorcycles/golf carts) shall be parked in or upon any streets within the Property, or on any driveway of any Lot for the purpose of accomplishing repairs except to the extent necessary to enable movement of the vehicle.
- D. The Association shall provide parking spaces within the Common Area for the residents of Lots 10 through 15, and may grant an exclusive easement to the owner of Lot 10 for designated parking therein.
- E. No trailers, boats, motor homes, wrecked vehicles, unregistered vehicles or other similar vehicles/equipment of any type or size shall be kept or stored on any Lot unless completely concealed from public view or in the Common Area; provided, however, that recreational vehicles and equipment, construction vehicles, and moving vans may be parked on a temporary basis for the purpose of loading and unloading (not more than twenty-four hours).

**Section 6.11. Operation of Motor Vehicles.** No motor driven vehicle (including, but not limited to, motorcycles, motor driven bicycles, go-carts and mini-bikes) shall be kept or operated on any part of the Property subject to these restrictions if such vehicle or the operation of such vehicle is disturbing to residents of any Lot. The Association shall have the right to order the removal of and/or cessation of operation of any such vehicle which is objectionable as provided by the preceding sentence. Upon receipt of a written order to remove and/or to cease operation of any such vehicle, the Owner of the Lot upon which such vehicle is located or being operated from shall promptly comply with such order.

**Section 6.12. Antennas.** No exterior antenna or other device for the transmission or reception of television, radio or other signals (except television antennae and fixed wireless devices that are one (1) meter or less in diameter) shall be erected or maintained on any Lot without the Association's prior written approval. Television antennae and fixed wireless devices that are one (1) meter or less in diameter should be installed so as not to be visible from neighboring Lots so long as an acceptable signal can be obtained, and should be painted to match the Improvements on the Lot if such painting does not void the device's warranty.

**Section 6.13. Placement of Heating and Cooling Devices.** No evaporative cooler, or other heating or cooling device, or duct works serving said devices, shall be placed on the roof or wall of any dwelling on a Lot unit or be ground-mounted unless the device or duct work, including its type and placement, is concealed with an enclosure and approved by the Association.

**Section 6.14. Leasing.**

- A. No portion of a Lot may be leased other than the entire Lot, and then only to a Single Family.
- B. After the date which is one (1) year from the date this Declaration is recorded, no Lot may be leased for an initial term of less than ninety (90) days.
- C. Any Owner leasing a Lot shall provide the following information to the Association at least ten (10) days before commencement of the lease term:
  - i) the commencement date and expiration date of the lease term;
  - ii) the names and contact information of any adults occupying the Lot during the lease term; and
  - iii) the address and telephone number at which the Owner (or Owner's agent) can be contacted by the Association during the lease term.
- D. All leases must specify that failure of the lessees to comply with this Declaration and/or the Association's rules constitutes a default under any such lease. The Owner shall be liable for any violation of this Declaration by the lessees or other persons residing in the residence and their guests or invitees and, in the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct any such violations.

**ARTICLE VII  
ASSOCIATION**

**Section 7.1. Membership.** Every Person who is an Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Only persons who own Lots shall be members of the Association.

**Section 7.2. Voting Rights.** Each Owner is entitled to one (1) vote per Lot; provided, however, that there shall be no more than one (1) vote cast for a particular Lot. In the event that a Lot is owned by more than one (1) Owner 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 an Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or she was acting with the authority and consent of all other Owners of the same Lot. In the event that more than one (1) vote is cast by an Owner for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

**Section 7.3. Management and Service Contracts.** Any agreement for professional management of the Property, or any other contract providing for services to the Association shall

provide for termination by either party without cause and without payment of a termination fee upon thirty (30) days' or less written notice.

**Section 7.4. Association Rules.** The Board may adopt, amend, and repeal rules and regulations governing the Common Area and the conduct of Owners and their guests thereon ("Rules") and, consistent with this Declaration, defining, clarifying, and/or providing procedures related to any provision of this Declaration. The Rules are deemed incorporated herein by this reference and shall have the same force and effect as if they were set forth herein.

**Section 7.5. Conveyance of Common Area.** The Association may dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that such dedication or transfer is approved by two-thirds (2/3) of the Owners.

**Section 7.6. Owner's Easement of Enjoyment to Common Area.** Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to each and every Lot. Any Owner may delegate his or her right of enjoyment to the Common Area to such Owner's family, tenants or contract purchasers who reside on the Property.

## ARTICLE VIII INSURANCE

**Section 8.1. By Owners.** It shall be the individual responsibility of each Owner to provide as he or she sees fit, at his or her own expense, insurance for his or her Lot against loss or damage by fire or other hazards, owner's liability insurance, theft and other insurance covering personal property damage and loss.

**Section 8.2. By Association.** The Board shall have the authority to and shall obtain and maintain in force the following policies of insurance applicable to the Common Property and improvements:

- A. Bodily injury liability insurance and property damage liability insurance with a limit of not less than \$1,000,000.00, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction;
- B. Workmen's Compensation Insurance to the extent necessary to comply with any applicable laws;
- C. Directors and officers liability insurance; and

- D. Such other insurance, including indemnity, fidelity and other bonds as the Board may deem necessary or expedient to carry out the Association's functions.

## **ARTICLE IX EASEMENTS**

**Section 9.1. Utility Easement.** There is hereby created a blanket easement upon, across, over and under the above described premises for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephones, electricity and a master television antenna system. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said premises without the prior written approval of the Association. This easement shall in no way affect any other recorded easements on said premises.

**Section 9.2. Easement for Encroachments.** The Common Area and common walls shall be subject to an easement for encroachments created by construction and settling, as constructed by the original builder. A valid easement for said encroachments and for the maintenance of the same, so long as it stands, shall and does exist. In the event a Lot is partially destroyed, and then is rebuilt, the Owners agree that minor encroachments on parts of adjacent Lots or Common Area due to construction shall be permitted, and that a valid easement for said encroachments and the maintenance thereof shall exist.

**Section 9.3. Landscape Easement.** There is hereby created a blanket easement upon, across, over and under the Lots (exclusive of Individual Patio Areas) in favor of the Association for the purpose of its carrying out the landscaping responsibilities set forth in Article V, Section 5.3.1.

## **ARTICLE X MISCELLANEOUS**

**Section 10.1. Right to Enforce.** The covenants, conditions and restrictions shall be covenants running with the land and the breach of any thereof or the continuance of any such breach may be enjoined or remedied by appropriate proceedings at law or in equity by the Association or by any Owner. The breach of any of the foregoing covenants, conditions and restrictions shall not affect or render invalid the lien of any Mortgage made in good faith for value as to any Lot, but said covenants, conditions and restrictions shall be binding upon and effective against any party acquiring title to any such Lot, whose title thereto was acquired by foreclosure, trustee's sale or otherwise.

**Section 10.2. Attorney's Fees.** If an Owner fails to comply with a written request by the Association to bring his Lot or conduct into compliance with the Declaration or Rules, and the Association retains an attorney in an effort to bring about such compliance, the breaching Owner agrees to pay reasonable attorneys' fees and costs thereby incurred by the Association which



amounts shall be secured by the assessment lien to which such Owner's Lot is subject. If any such noncompliance results in litigation, the prevailing party in such action shall be entitled to an award of its reasonable attorney's fees and costs incurred in the matter.

**Section 10.3. No Waiver.** No delay or omission on the part of the Association or the Owners of other Lots in the Property in exercising any right, power or remedy herein provided shall be construed as a waiver thereof or acquiescence in any breach hereof.

**Section 10.4. Amendment.** The covenants, conditions and restrictions provided for herein may be amended at any time by the vote or written consent of Owners representing at least two-thirds (2/3) of the Lots. Any amendment to this Declaration shall be evidenced by a written document signed by the President and Secretary of the Association and recorded in the official records of Pima County, Arizona.

**Section 10.5. Severability.** In the event that any of the covenants, conditions and restrictions herein set forth or any changes made therein shall be declared to be null and void by any court of competent jurisdiction, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of said covenants, conditions or restrictions not so expressly held to be void, but all the remaining covenants, conditions and restrictions shall continue unimpaired and in full force and effect.

**Section 10.6. Interpretation.** Except for judicial construction, the Board shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction and interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or bound by this Declaration.

**Section 10.7. Violation of Law.** The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners to obtain the approval of the Association with respect to certain actions, including, but not limited to, obtaining architectural approval, are independent of the obligation of Owners to comply with all applicable laws, ordinances and regulations. Compliance with this Declaration shall not relieve an Owner from the obligation to also comply with all applicable laws, ordinances and regulations. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any Lot is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

**Section 10.8. 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 of context hereof.

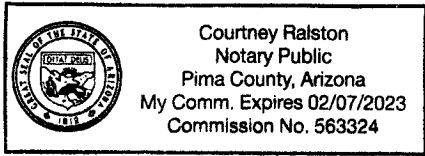
The undersigned hereby certifies that this Amended and Restated Declaration was approved by Owners representing at least two-thirds of the Lots.

SHADOWS OF THE RIDGE HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation

By: Sandra A Carter

Its: President

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF PIMA )



This instrument was acknowledged before me this 19 day of April, 2020,  
by Sandra A Carter for the purposes stated herein.

Courtney Ralston  
Notary Public

My Commission Expires: 2/7/2023