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Sun City Hermosa  
Covenant Control Committee

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County of Riverside

Larry W. Ward

Assessor, County Clerk & Recorder



AND WHEN RECORDED, MAIL TO:

Sun City Hermosa Covenant  
Control Committee

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**AMENDED AND RESTATED  
DECLARATION OF RESTRICTIONS  
OF  
SUN CITY HERMOSA**

A 55+ SENIOR COMMUNITY

<p>*** EACH DWELLING MUST BE OCCUPIED BY AT LEAST ONE PERSON AGE 55 OR OLDER *** EACH ADDITIONAL PERSON RESIDING WITH THE SENIOR MUST BE 45 YEARS OF AGE WITH CERTAIN SPECIFIED EXCEPTIONS. SEE SECTION 9.2 FOR DETAILS</p>
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THE PROJECT IS A PLANNED DEVELOPMENT  
THE PROJECT IS NOT A COMMON INTEREST DEVELOPMENT

THE NAME OF THE ASSOCIATION IS

**SUN CITY HERMOSA COVENANT CONTROL COMMITTEE**  
a California Mutual Benefit Nonprofit Corporation

**AMENDED AND RESTATED**

**DECLARATION OF RESTRICTIONS**

**OF**

**SUN CITY HERMOSA**

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**RESTATED AND CONSOLIDATED  
DECLARATION OF RESTRICTIONS  
OF  
SUN CITY HERMOSA**

The Declarations of Restrictions listed below (collectively, the "Original Declarations"), affecting the indicated real properties below, were executed by Hermosa Construction Corporation doing business as Hermosa Homes, a California corporation and recorded in the Official Records of Riverside County, California:

Legal Descriptions (" Properties):	Original Declarations
Lots 1-4, inclusive, of Tract 15383-1 as shown by map on file in Book 138 pages 45 and 46 of Maps, records of Riverside County, California.	Declaration of Restrictions recorded May 22, 1986 as document no. 118941 in the Office of the County Recorder of Riverside County, California, as amended by document recorded November 18, 2002 as document no. 2002-675178 in the Office of the County Recorder of Riverside County, California.
Lots 1-96, inclusive, of Tract 15383-2 as shown by map on file in Book 143 pages 49 through 52 of Maps, records of Riverside County, California.	Declaration of Restrictions recorded July 26, 1984 as document no. 162473 in the Office of the County Recorder of Riverside County, California, as amended by document recorded November 18, 2002 as document no. 2002-675180 in the Office of the County Recorder of Riverside County, California.
Lots 1-96, inclusive, of Tract 15383-3 as shown by map on file in Book 154 pages 61 through 64 of Maps, records of Riverside County, California.	Declaration of Restrictions recorded December 10, 1985 as document no. 282718 in the Office of the County Recorder of Riverside County, California, as amended by document recorded November 18, 2002 as document no. 2002-675179 in the Office of the County Recorder of Riverside County, California.
Lots 1-124, inclusive, of Tract 15383-4 as shown by map on file in Book 163 pages 97 through 100 of Maps, records of Riverside County, California.	Declaration of Restrictions recorded December 3, 1986 as document no. 307235 in the Office of the County Recorder of Riverside County, California, as amended by document recorded October 24, 2002 as document no. 2002-601645 in the Office of the County Recorder of Riverside County, California.

**THE ORIGINAL DECLARATIONS ARE HEREBY CONSOLIDATED INTO A SINGLE DECLARATION COVERING ALL THE PROPERTIES AND ARE HEREBY AMENDED AND RESTATED IN ITS ENTIRETY TO READ AS FOLLOWS:**

## RECITALS

A. Hermosa Construction Corporation doing business as Hermosa Homes, a California corporation ("Declarant") was the owner of all of the Properties at the time the Original Declarations were recorded.

B. Subsequent to recording the Original Declarations, Declarant conveyed the Lots comprising the Properties, subject to the protective covenants, conditions, and restrictions set forth in the Original Declarations, which were and remain for the purpose of enhancing and protecting the value, desirability and attractiveness of the Properties and all of which run with the Properties and are binding on all parties having or acquiring any right, title or interest in the Properties, its heirs, successors and assigns.

C. Pursuant to the provisions in the Original Declarations, the Owners of Lots within the properties caused said Original Declaration to be amended by documents recorded in the Office of the County Recorder of Riverside County.

D. It is the intention of the current Owners of Lots within the Properties to consolidate the Original Declarations into one document and to replace each and all of said Original Declarations, as amended, in their entireties, by the recordation of this document.

E. The new combined Properties are to be known as SUN CITY HERMOSA. The Properties comprise an age restricted, senior citizen community and "housing for older persons" as that phrase is defined in California and federal law.

### **Article 1. Definitions.**

1.1 "Articles" means the Articles of Association of the Sun City Hermosa Covenant Control Committee, as such Articles may from time to time be amended and, in the event the Committee should at some future date incorporate, to such Articles of Incorporation.

1.2 "Association" and "Committee" mean the Sun City Hermosa Covenant Control Committee, an unincorporated association. The Association is the successor-in-interest of the Sun City Hermosa Architectural Committees referred to in the Original Declarations. The Members of the Association are the Owners of Lots within the Properties.

1.3 **"Committee" or "Board"** means the body which manages, operates and controls the Association.

1.4 **"Bylaws"** means the Bylaws of the Association as may be amended or adopted from time to time.

1.5 **"Declaration"** means this instrument, as it may be amended from time to time. The "Original Declarations" refer to the documents mentioned in the Preamble.

1.6 **"Governing Documents"** means this Declaration, the Articles, the Bylaws and the Rules and Regulations of the Association.

1.7 **"Improvement"** includes, without limitation, the construction, installation, alteration, or change in exterior color of paint or roofing material, or remodeling of any buildings, or structures of any kind, or addition of any external equipment, any changes to front of homes, walls, decks, fences, landscaping or landscape structures, or the installation of skylights, solar heating equipment, antennas, or any structure of any kind. "Improvement" shall not be interpreted to include projects that are restricted to the interior of any Living Unit, except where such projects affect the structural integrity of the exterior walls or roof.

1.8 **"Living Unit"** means a private, single-family dwelling constructed on a Lot. The Living Unit located upon a Lot is one-half of a duplex structure sharing a common Party Wall located upon the lot line with a like Living Unit located upon an adjoining Lot.

1.9 **"Lot"** means any parcel of real property designated by a number on Subdivision Maps Nos. 15383-1, 15383-2, 15383-3 or 15383-4, filed in the Office of the County Recorder of Riverside County, California. When appropriate within the context of this Declaration, the term "Lot" shall also include the Residence and other improvements constructed on a Lot.

1.10 **"Member"** means every person or entity who holds a membership in the Association, and, except where the context implies otherwise, is synonymous with the term "Owner".

1.11 **"Owner"** means any person, firm, corporation or other entity that owns a fee simple interest in any Lot. When an Owner is a trust, the trustee may exercise the membership rights attributable to the trust.

1.12 **"Owner of Record"** and **"Member of the Association"** means any person(s), partnership, trustee, firm, corporation or other entity in which title to a Lot is vested as shown by the official records of the Office of the County Recorder of Riverside County.

1.13 **"Party Wall"** means any wall of a Living Unit and any fence located on a property line dividing adjacent Lots, which wall is commonly used by such Lot and the adjoining Lot. Living Units within the Properties also share a common roof.

1.14 **"Properties"** means all parcels of real property described in the Preamble of this document, together with all buildings, structures, utilities, and other improvements located thereon, and all appurtenances thereto.

1.15 **"Quorum"** means a majority of Owners entitled to vote upon a matter.

**Article 2. Association.**

2.1 **Name.** The name of the Association is Sun City Hermosa Covenant Control Committee. The Association has been formed as a nonprofit entity for the primary purpose of enforcing the Governing Documents and otherwise to enhance and promote the use, enjoyment, appearance and value of the Properties.

2.2 **Powers and Authority of the Association.** The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of this Declaration and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. Without limiting the generality of the foregoing, the Association shall be responsible for enforcing the provisions of the Governing Documents, of managing, maintaining and protecting the status of the Properties as a senior citizen housing development and of discharging such other duties and responsibilities as are imposed on the Association by this Declaration and the Bylaws. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a such an entity under the laws of the State of California, subject only to such limitations upon the exercise of such powers as are expressly set forth in this Declaration and the Bylaws.

2.3 **Compensation.** The members of the Board shall receive no compensation for services rendered other than reimbursement for expenses incurred in the performance of their duties as directors.

2.4 **Membership.** Every Owner of a Lot, upon purchasing such Lot, shall automatically become a Member of the Association and shall remain a Member thereof until such time as his or her ownership ceases, at which time the membership in the Association shall automatically cease. Memberships in the Association shall not be transferable, except to the Person to whom title to the Lot has been transferred. A membership in the Association may not be separated from the fee ownership of such Lot. Ownership of a Lot is the sole qualification for membership in the Association.

2.5 **Voting Rights of Membership.** The Association has one class of membership. Each Member of the Association is entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Lot. The Association shall be notified in writing of the Owner designated by his or her co-owners as having the sole right to vote the membership on their behalf. If no such notification is received the secretary may accept the vote of any Owner as the vote attributable to the Lot in question, provided that if the multiple Owners of a Lot attempt to vote the membership attributable to said Lot in an inconsistent fashion, the Association may refuse to count any ballot pertaining to the Lot. Voting rights may be suspended for non-payment of assessments, after written notice to the Owner, for as long as the delinquency continues. Voting rights may be suspended for violations of provisions of this Declaration, the Bylaws or the Association Rules after Notice and Hearing as provided in section 12.2 of this Declaration.

2.6 **Adoption and Amendment of Rules and Regulations.** Association Rules and Regulations regulating the use of the Properties, not inconsistent with the provisions of this Declaration or the Bylaws, may be adopted or amended from time to time by the Board. Provided, however, that no rule or amendment to a rule shall be effective until 30 days after the rule has been communicated to the members in writing; i.e., new rule takes effect 30 days after notification. If, within said 30 day period five percent (5%) or more of the members petition the Board for a Member vote regarding such rule, the rule shall not become effective until and unless the Members approve the rule. No rule once rejected by the Members shall be thereafter enacted without the approval of the Members. Once adopted and distributed to Members, Association Rules shall have the same force and effect as if set forth in this Declaration.

2.7 **Delegation of Powers.** The Board may delegate its authority hereunder to such committees as the Board, in its sole discretion, deems advisable. Any such committee may be composed entirely of Board Members or of Board Members and/or Association members who are not Board Members. The Board shall establish the rules and procedures of such committees.

**Article 3. Assessments.**

3.1 **Covenant For Assessment.** Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay assessments to the Association for the operation and activities of the Association. Assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a continuing lien upon the Lot against which such assessment is made and shall also be the personal obligation of the Owner of the Lot at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of a Lot or by an offer to waive the benefits of Association membership.

3.1.1 **Annual Assessments.**

- (a) The fiscal year of the Association shall be the calendar year.
- (b) Annual assessments shall be due, in full, on April 1 of each year, unless the Board determines otherwise.
- (c) Not later than February 1 of each year, the Board shall establish the amount of the Annual Assessment for the following fiscal year in an amount not greater than the Maximum Annual Amount as calculated in (e) below.
- (d) Not later than March 1 of each year, the Board shall notify all Members of the Annual Assessment for the following fiscal year. The annual assessment shall not exceed the Maximum Annual Assessment. If the Board fails to so notify Members, then the Annual Assessment shall remain unchanged from the current year.
- (e) The initial Maximum Annual Assessment is \$43.00. The Maximum Annual Assessment may be increased only as follows:



- (i) With the consent of a majority of the Members casting votes at a duly held meeting of the Association at which a quorum is present or a duly held election of the Association where the votes cast equal or exceed the number of votes necessary for a quorum.
- (ii) Without the consent of a majority of the Members, the Board may increase the Maximum Annual Assessment by an amount that is not more than 20 percent greater than the Annual Assessment for the preceding fiscal year.

3.1.2 Special Assessments. No Special Assessment shall be imposed without the vote of at least fifty-one percent (51%) of all Members.

3.1.3 No Offsets. All assessments shall be payable in the amounts specified by the Association and no offsets against such amount shall be permitted for any reason including, without limitation, a claim that the Association is not properly exercising its duties of operation or enforcement.

3.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit, recreation and welfare of the Owners, enforcement of the provisions of the Governing Documents, protection of the status of the Properties as a senior citizen housing development and keeping the Properties in a neat, sanitary and attractive condition. The Board shall have exclusive control of said funds.

3.3 Effect of Nonpayment of Assessments. An Assessment, or installment thereof, shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. A late charge of ten dollars (\$10.00), to compensate the Association for increased bookkeeping, billing, and administrative costs of dealing with late payments, shall be imposed. Additionally, interest at the rate of ten percent (10%) per annum shall be charged with respect to any Assessment or installment thereof not paid within 30 days of the date due. Returned checks will be assessed the amount permitted to be charged by Civil Code section 1719 (currently \$25.00 for the first NSF check and \$35.00 for each subsequent NSF check).

3.4 Notice of Delinquent Assessment. The amount of any delinquent Assessment, together with any late charges, interest, costs, and attorneys' fees incurred in the collection

thereof, shall be a lien upon the Lot assessed, when the Association causes to be recorded in the Office of the Riverside County Recorder a Notice of Delinquent Assessment. Such lien shall be executed by an authorized representative of the Association, setting forth: (i) the amount of the delinquent assessment(s) and other sums duly imposed pursuant to the Governing Documents together with all sums that shall thereafter be assessed or become due prior to the lien being paid in full, (ii) the legal description of the Lot, (iii) the name of the Owner of Record of such Lot, (iv) the name and address of the Association, and (v) the name and address of the trustee authorized by the Association to enforce the lien by sale. The lien may be enforced in the same manner as provided in California Civil Code section 1367 or as otherwise provided by law. Upon payment in full of the sums specified in the Notice of Delinquent Assessment, the Association shall cause to be recorded a further notice stating the satisfaction and release of the lien, upon payment by the defaulting Owner of a reasonable fee, to be determined by the Board, to cover the cost of preparing and recording such release.

3.5 **Remedies Available to the Association.** The Association may initiate a legal action against the Owner personally obligated to pay the delinquent assessment, foreclose its lien against the Owner's Lot, accept a deed in lieu of foreclosure or pursue any other remedy authorized by law. In the event of a default in payment of any assessment, the Association, in its name but acting for and on behalf of all other Owners, may initiate legal action, in addition to any other remedy provided herein or by law, to recover a money judgment or judgments for unpaid assessments, costs and attorneys' fees without foreclosure or waiver of the lien securing same.

3.6 **Cumulative Remedies.** The assessment lien and the rights to foreclosure and sale thereunder are in addition to and not in substitution of other rights and remedies which the Association may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments.

3.7 **Mortgage Protection.** Notwithstanding all other provisions hereof, no lien created under this article 3, nor any breach of this Declaration, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the Beneficiary under any Recorded First Deed of Trust (meaning any deed of trust with first priority over other deeds of trust) upon a Lot made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Lot by judicial foreclosure or by means of the powers set forth in such Deed of Trust, such Lot shall remain subject to the Declaration and the payment of all installments of Assessments accruing subsequent to the date such Beneficiary or other Person obtains title.

3.8 **Priority of Assessment Lien.** The lien of the assessments, including interest and costs (including attorneys' fees), provided for herein shall be subordinate to the lien of any first Mortgage upon any Lot made in good faith and for value. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments only as to payments that became due prior to such sale or transfer.

**Article 4. Maintenance Obligations of Owners.** It is the obligation of each Owner, at such Owner's sole cost and expense, subject to the provisions of this Declaration requiring Board approval, to maintain, repair, replace and restore all Improvements located on his or her Lot and the Lot itself, in a neat, sanitary and attractive condition. It is the obligation of owners to maintain Party Walls. Each Owner has complete discretion as to the choice of furniture, furnishings, and interior decorating, except that windows can be covered only by drapes, shutters, blinds, curtains or shades and cannot be painted or covered by foil, wood, cardboard, or other similar materials. Owner maintenance responsibilities include, but are not limited to, replacement of an Owner's Living Unit in the event of destruction by fire or otherwise, including glass areas, and the repair and replacement of the plumbing, cooling and heating systems and related mechanical and electrical equipment which serve the Lot of such Owner. If any Owner permits any Improvement on his or her Lot to fall into disrepair or to become unsafe, unsightly or unattractive, including the driveway, the Board has the right to file a Notice of Breach, if such notice is permitted by law, or seek any remedies at law or in equity which it may have, and the costs incurred by the Association thereby shall be subject to collection as an Assessment, enforceable as set forth in article 3 of this Declaration.

**Article 5. Damage and Destruction Affecting Living Units – Duty to Rebuild.** If all or any portion of any Living Unit is damaged or destroyed by fire or other casualty, it is the duty of the Owner of such Lot to rebuild, repair or reconstruct the Living Unit on such Lot in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty or as otherwise approved by the Board. The Owner of any damaged Living Unit shall be obligated to proceed with all due diligence to effect repair, and such Owner shall cause reconstruction to commence within three (3) months after the damage occurs and to be completed within nine (9) months after damage occurs, unless prevented by causes beyond reasonable control of the Owner.



**Article 6. Insurance.**

6.1 **Owners To Provide Own Insurance.** **The Association does not carry insurance protecting Lots and homes from fire or other casualties.** Each Owner will obtain and maintain, at his or her own expense, fire and casualty insurance coverage in an amount of at least 80% of the replacement value of the Living Unit, with respect to damage or destruction to improvements on the Owner's Lot.

6.2 **Association Insurance.** The Association may obtain and maintain one or more policies of insurance which includes coverage for individual liability of officers and directors of the Association for negligent acts or omissions of those persons acting in their capacity as officers or directors. The Board in its sole discretion shall determine limits of liability of this insurance. The Board may purchase such other insurance and fidelity bonds as the Board, in its sole discretion, deems necessary or desirable.

**Article 7. Party Walls.**

7.1 **General Rules of Law to Apply.** Each wall of a Living Units located on a dividing line between Lots, and each such fence, shall constitute a "Party Wall," and, to the extent not inconsistent with the provisions of this section, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Each Owner of a Living Unit attached to a Party Wall has a mutual and reciprocal easement in and to the interior portion of said Party Wall that is located upon the adjoining Owners' property. Nothing shall be altered or constructed on or removed from the party wall except upon the written consent of the Owners of both Living Units sharing the common wall. The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the wall in equal proportion to such use.

7.2 **Destruction by Fire or Other Casualty.** If a Party Wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, they shall contribute to the cost of restoration thereof in equal proportion 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 omissions. Notwithstanding any other provisions of this section, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his

or her negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

7.3 **Arbitration.** All disputes concerning Party Walls shall be subject to binding arbitration. In any such arbitration, the Board, or an impartial person or persons appointed by the Board, shall act as arbitrator. The costs of such arbitration, including reasonable attorney fees, shall be allocated between the parties as determined by the arbitrator.

**Article 8. Maintenance of Landscaping.** Each Owner of a Lot shall maintain the landscaping on the Lot in a neat and clean condition. Each Owner shall at all times maintain his or her Lot free and clear of weeds and debris.

**Article 9. Use Restrictions.** All real property within the Properties shall be held, used and enjoyed subject to the following limitations and restrictions:

9.1 **Single Family Residence; Limit on Number of Residents.** Each Lot shall be used as a residence for a single family living unit. Because of the small size of the Living Units within the Properties, the nature of the construction of the Living Units, the close proximity of the Living Units to each other, the Senior character of the Properties and the very limited vehicular parking that is available, the total number of residents permitted to permanently reside within a Living Unit shall not be more than a number equal to one person per bedroom, plus one resident for the remainder of the Living Unit as originally constructed. In exceptional circumstances, the Board may grant permission for an additional person to permanently reside within a Living Unit. No Living Unit may be modified so as to increase the number of bedrooms to in excess of the number of bedrooms as originally constructed.

9.2. **Senior Citizen Occupancy.** It is the intent of this section 9.2 to comply with the requirements for qualification as a Senior Citizen Housing Development under the California Unruh Civil Rights Act [California Civil Code section 51 et seq.] and as Housing For Older Persons under the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) (referred to herein as the "Acts"). To the extent any provision of those laws, now or in the future, is inconsistent with the provisions herein, the provisions of the Acts which would permit Sun City Hermosa development to qualify or maintain its qualification as a residential housing development for seniors shall be deemed to be applicable and, notwithstanding any other provision of this document, the Board of Directors shall be empowered to amend this Declaration, without a vote of the Owners, to comply with requirements of the Acts.



At least one person occupying each Living Unit shall be fifty-five (55) years of age or older ["Qualifying Resident(s)"]. Except for guests, all other persons occupying the Living Unit must be "Qualified Permanent Residents." "Qualified Permanent Resident" means a person who meets both of the following requirements:

- (A) Was residing with the Qualifying Resident prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the Qualifying Resident".
- (B) Was 45 years of age or older, or was a spouse, cohabitant (meaning persons who live together as husband and wife or who are domestic partners within the meaning of Section 297 of the California Family Code), or person providing primary physical or economic support to the Qualifying Resident.

9.2.1 "Qualified Permanent Resident" also means a disabled person or person with a disabling illness or injury who is a child or grandchild of a Qualifying Resident or Qualified Permanent Resident who needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disabling condition, illness or injury. Provisions regarding what constitutes a "disabling injury or illness" and when the association may prohibit or terminate such occupancy shall be as set forth from time to time in California Civil Code section 51.11(b)(3) or comparable succeeding statute.

9.2.2 Upon the death of a Qualifying Resident or upon the dissolution of a Qualifying Resident's marriage or hospitalization or other prolonged absence of a Qualifying Resident, a Qualified Permanent Resident shall be entitled to remain in the Living Unit. This subdivision 9.2.2 shall not apply to a permitted health care resident.

9.2.3 In addition, a "Permitted Health Care Resident" as that term is defined in California Civil Code section 51.11(b)(7) who is hired to provide live-in, long term, or hospice health care to a Qualifying Resident and who in fact provides care of a substantial nature in assisting the Qualifying Resident with necessary activities or medical treatment, or both, shall be entitled to reside in the dwelling with the Qualifying Resident and for such periods in the absence of the Qualifying Resident as specified in California Civil Code section 51.11(b)(7).



9.2.4 Persons not meeting the foregoing occupancy requirements may temporarily reside in a Living Unit as a guest of a Qualifying Resident or Qualified Permanent Resident for no more than sixty (60) days (whether consecutive or non-consecutive) in any calendar year.

9.2.5 Notwithstanding the foregoing provisions allowing a Unit to be occupied without a person age 55 or older in residence, the Association shall be entitled to preclude the occupancy of any unit if no person age 55 years of age or older will be occupying said unit if, as a result of such occupancy, less than 80% of all living units within the Properties would be occupied by at least one person age 55 or older.

9.2.6 Upon request by the Board, each occupant of a Living Unit shall execute an affidavit, in such form as required by the Board, attesting to their qualifications to reside in the Living Unit, and shall further provide such documentation as the Board may require verifying the ages of each resident. Further, upon request by the Board, each resident of a Living Unit shall produce such documentation as may be required by the Association to establish that the Sun City Hermosa Properties qualifies as a "senior citizen housing development" or "housing for older persons" under applicable provisions of California and Federal law. This documentation may include, but is not limited to, affidavits and other documentation to verify the age of residents.

9.2.7 No day care, baby-sitting or like activity involving persons not entitled to occupancy under this section 9.2 shall be permitted for compensation or on a regular or continuing basis.

9.2.8 For so long as the Federal Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et. seq.) as amended requires at least 80% of all Living Units to be occupied by at least one person age 55 or older, if circumstances should arise whereby the allowance hereunder of the right of a person under age 55 to reside in a Living Unit in the absence of a senior citizen threaten to cause fewer than 80% of all Living Units to be occupied by at least one person age 55 or older, the Board may refuse to permit such residency by a Qualified Permanent Resident in the absence of a Senior Resident even though otherwise authorized hereunder.

9.2.9 Notwithstanding any other provision of this document, the Board shall be entitled to amend this section 9.2 and such other provisions of the Governing Documents as may be necessary to comply and conform to such provisions of the Acts as will permit the Properties to retain its status as a "Senior Citizen Housing Development" and "Housing for Older Persons", without the approval of the Members.

9.3 **Renting of Residential Units.** All rentals shall be subject in all respects to the Governing Documents and the rental agreement shall provide that failure to comply with any provision of the Governing Documents shall constitute a material default under the terms of the lease or rental agreement. Within thirty (30) days of renting property in Sun City Hermosa, the Owner shall notify the Association in writing of: (a) the names and ages of all tenants (who shall all satisfy the requirements of section 9.2), tenant's phone number and persons occupying such Lot (to be no more occupants than permitted in section 9.1), and (b) the address and telephone number where such owner can be reached. Further, if a non-resident Owner of a Lot moves, within thirty (30) days thereafter, such Owner shall notify the Association, in writing, of his or her new address and telephone number.

9.4 **No Business or Commercial Activity.** No part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such nonresidential purposes. The provisions of this section shall not preclude: (a) professional, administrative and like occupations without any external evidence thereof, for so long as such occupations are conducted in conformance with all applicable governmental ordinances and are merely incidental to the use of the Dwelling Unit as a residential home; (b) the leasing or renting of a Living Unit for residential purposes to persons meeting the age and numerical requirements of sections 9.1 and 9.2 above, for periods of thirty (30) days or more; or (c) the use of a Lot as an office for the conducting of Association business.

9.5 **Nuisances.** No noxious or offensive activities (including but not limited to the repair of motor vehicles, except in emergencies) shall be carried on upon the Properties. No Owner shall allow interior furniture, furnishings or other personal belongings of such Owner to remain outside the Living Unit, where it may be visible from the streets within the Properties or adjacent Lots, except as authorized by the Board. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Living Unit and its contents, shall be placed or used on the Properties. No junk vehicle (including, without limitation, any vehicle that is inoperable, or not currently registered with DMV, dilapidated, materially damaged, or has broken windows) shall be permitted within the properties. No vehicle shall be parked on the Lot except in the driveway or garage or, with the written permission of the Association, behind the front setback line of the Living Unit, provided any vehicle parked behind or beside the house shall be screened from view. Noisy or smoky

vehicles, large power equipment and large power tools, off-road motor vehicles or items which may unreasonably interfere with television or radio reception of any Owner in the Properties, and objects which create or emit loud noises or noxious odors shall not be located, used or placed on any portion of the Properties, or on any public street abutting the Properties, or exposed to the view of other Owners without the prior written approval of the Board. The Board shall have the right to determine if any noise, odor, or activity producing such noise or odor constitutes a nuisance. Each Owner shall be accountable to the Association and other Owners for the conduct and behavior of persons residing in or visiting his or her Lot.

9.6 **Usage of Units.** Nothing shall be done or kept in any Living Unit or upon any Lot that will increase the rate of insurance on the total building. No Owner shall permit anything to be done or kept in his or her Living Unit which will result in the cancellation of insurance on the total dwelling, or which would be in violation of any law. Nothing shall be done in any Living Unit or upon any Lot that would structurally impair the building or which would structurally change the building, except as otherwise provided in this Declaration.

9.7 **Signs, banners and displays.** No sign, poster, display, lights, banners, flags, flagpoles or other like device, whether commercial or non-commercial, shall be erected upon any Lot or the public rights of way within the Properties, either temporarily or permanently, except, in accordance with Civil Code Section 712, (a) one (1) sign for each Lot, of reasonable dimensions and design as determined by resolution of the Board, advertising the Lot for sale, lease or exchange; (b) house numbers, traffic and other signs approved by the Board; (c) Neighborhood Watch signs and other security signs in accordance with rules adopted by the Board; (d) temporary garage sale signs and political signs of not more than (9) square feet, and holiday displays in accordance with rules adopted by the Board; and (e) a U.S. flag of not more than fifteen (15) square feet may be displayed from or upon the Living Unit, but not from a freestanding flagpole in the yard, at any time.

9.8 **Garage Sales.** No more than two (2) garage/yard sales, plus any community garage sales organized or authorized by the Board, may be conducted on any Lot in any calendar year and no such sale shall continue for a period longer than thirty-six (36) consecutive hours. Signs promoting such sale may be posted upon the Lot not more than 48 hours prior to the sale and must be promptly removed once the sale is completed. The Board may adopt additional rules regulating garage and yard sales and the posting of signs with respect thereto.



9.9 **New Buildings Only.** No building of any kind shall be moved from any other place onto any Lot, or from one Lot to another Lot, without the prior written consent of the Board.

9.10 **Exterior Alterations.** No alteration shall be made to the exterior design or color of any structure unless the Board shall have first approved such alteration or addition to a Living Unit.

9.11 **Plans and Specifications.** No building or Improvement upon any Lot shall be commenced or altered and no change to the exterior design, color or appearance of any building, structure or Improvement shall be made until the location and the complete plans and specifications, including the color scheme, of each building, or Improvement to be erected or altered upon the Lot has been approved in writing by the Board or an Architectural Review Committee (ARC) appointed by the Board. Approval shall not be granted as to only one-half (one Living Unit) of a duplex structure with respect to any re-roofing or re-painting which involves a change of color (of either the trim or body of the building), material, style, finish or other major changes of design. Changes from existing color, style, et cetera, may be approved if both Living Units of a duplex structure make a joint application to cause both Living Units to be changed at the same time and in the same manner and such change(s) is compatible with adjoining structures. If the proposed Improvement involves any modification of a roof or wall shared by adjacent residences, both Owners must submit the application jointly. If the proposed Improvement will be visible from any neighboring Lot, the Owners of such neighboring Living Units shall be notified of the submission of plans by the Owner-Applicant and shall be given at least ten days to comment upon the submission. Review and approval by the Board of any proposals, plans or other submissions pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Owner who desires to construct, install, or modify the dwelling. Nothing shall be done in any unit which will impair the structural integrity of the building, or which would structurally change the building, except as is otherwise provided herein. No building shall be located on any Lot in front of the setback line as shown on the recorded plot. Owners are responsible for obtaining from appropriate governing agencies all required building permits and approvals. The obtaining of such permits does not substitute for getting the Board approval, both are required.

9.12 **Height Limitation.** No Living Unit shall be more than one story in height. No landscaping shall block the view of traffic at street corners. The decision of the Board as to whether landscaping blocks the view or causes a safety hazard at a corner shall be final.

9.13 **Temporary Buildings**. No outbuilding, shack, shed or other temporary building or Improvement of any kind shall be placed upon any Lot without the prior written consent of the Board. No tent, shack, garage, carport, trailer, camper, motor home, recreation vehicle or other vehicle shall be used as a residence in the Properties, either temporarily or permanently. No garage may be converted to living use or to any use that would prevent the parking of an automobile in the garage.

9.14 **Animals**. No animals of any kind shall be allowed upon any Lot or within any Unit or within the Properties, except as follows:

9.14.1 Caged birds (other than fowl) at all times kept within a Unit;

9.14.2 Fish in aquariums (and, with the approval of the Board, in small exterior ponds);

9.14.3 Small caged animals (guinea pigs and hamsters, et cetera) at all times kept within a Unit;

9.14.4 Dogs and Cats: a total of not more than two such pets shall be permitted on any Lot. Only one dog weighing in excess of 100 pounds shall be permitted. Residents are responsible to ensure that neither their dogs nor cats go upon the Lot of another Owner without prior permission. All animal waste shall be promptly picked up by the owner of the animal and shall not be allowed to accumulate on the Lot. No dog or cat shall be allowed within the Properties, except within a living unit or a fenced yard unless on a leash held by a person capable of controlling the animal.

9.14.5 Service animals used by handicapped persons and service animals in training.

9.14.6 No animal shall be kept, bred or maintained upon any Lot for commercial purposes.

9.14.7 No exotic animals, reptiles over 12 inches in length or farm animals are permitted. No animal shall be kept, bred or maintained upon any Lot for

commercial purposes. No cages or pens shall be permitted outside of the Unit.

9.14.8 The Board shall have the power to adopt reasonable additional rules regarding the keeping of pets within the Properties and shall, after Notice and Hearing, have the ability to determine that a pet is a nuisance and order its removal from the Properties.

9.15 **Trash.** No rubbish, trash, garbage, green waste or other waste material shall be kept or permitted upon any Lot or any public street abutting or visible from the Properties, except in sanitary containers located in appropriate areas and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Properties, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Such containers and recycling containers shall be exposed to the view of neighboring Lots only when set out for collection not earlier than 3 p.m. the evening before collection and removed from the curb to an out-of-sight location by sundown of the day of collection. No clothing or household fabrics shall be hung, dried or aired on or over any Lot in such a way as to be visible from any other Lot, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Properties except within an enclosed container and appropriately screened from view. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown or maintained upon the Properties.

9.16 **Outside Installations.** No basketball backboard or other fixed sports apparatus shall be constructed or maintained on the Properties. No fence or wall shall be erected or altered on any Lot in the Properties, except with the prior approval of the Board. No patio cover, wiring, or air conditioning fixture, water softeners, or other devices shall be installed on the exterior of a Dwelling Unit or be allowed to protrude through the walls or roof of the Dwelling Unit, with the exception of those items installed during the original construction or installation of the Living Unit, unless the prior written approval of the Board is obtained.

9.17 **No Drilling or Wells.** No drilling or well for the production of, or from which there is produced water, oil, gas, mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any Lot or within five hundred feet (500') below the surface of the Properties.



No derrick or other structure designed for use in boring for water, oil, geothermal heat or natural gas shall be erected, maintained or permitted upon any Lot.

9.18 **No Further Subdivision.** No Owner shall further partition or subdivide his or her Lot, including without limitation any division of a Lot into timeshare estates or timeshare uses; provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease his or her entire Lot by means of a written lease or rental agreement subject to the restrictions of this Declaration; (2) to sell his Lot; or (3) to transfer or sell any Lot to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property.

**Article 10. Term of Declaration.** This Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successive Owners and assigns, for a term of thirty (30) years from the date this Amended Declaration is Recorded, after which the term shall be automatically extended for successive periods of ten (10) years unless within six (6) months prior to the commencement of an extension period, a declaration of termination meeting the requirements of an amendment to the Declaration is recorded.

**Article 11. Amendments.** This Declaration may be amended or revoked in any respect by the vote or written mail ballot (conducted pursuant to the provisions of section 7513 of the California Corporations Code) of not less than two-thirds (2/3rds) of the Owners casting votes at a meeting at which a quorum is present or in an election by written mail ballot where a majority of the owners submit ballots. Notwithstanding the foregoing, no amendment shall be valid unless approved by at least a majority of all Owners. With respect to any vote hereunder, the Association shall be entitled to accept the vote of any Owner of Record of a Lot as the vote of all Owners of Record of such Lot unless the Association receives more than one vote from said Co-Owners, in which case the vote of a majority of the Co-Owners shall bind all. An amendment shall be effective upon the recordation of in the Office of the Recorder of Riverside County accompanied by a certificate, signed and acknowledged by the Chair of the Covenant Control Committee, setting forth that the amendment has been approved by the requisite vote of the Owners. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

**Article 12. Enforcement.**

12.1 **Restrictions are Enforceable.** The covenants and restrictions in this Declaration are enforceable equitable servitudes and shall inure to the benefit of and bind all Owners of Lots within the Properties. Except as otherwise provided herein, all provisions may be enforced by any Owner or by the Association, or by both. The Association may enforce any provision of the Governing Documents by bringing an action at law or in equity or, with the agreement of the persons against whom enforcement is sought, through mediation, arbitration or other alternative dispute resolution process. In addition, the Board shall have the power to assess, after Notice and Hearing as provided in section 12.2 below, reasonable monetary penalties for breach of any provision of the Governing Documents. The Board shall publish annually a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate and shall mail such schedule to the Members annually together with the prepared yearly budget and notice of annual assessment. Such schedule shall include that an Owner's voting rights will be suspended if dues are not paid within thirty (30) days of the due date. Once imposed, a monetary penalty may be collected as an Assessment pursuant to article 3 hereof.

12.2 **Notice and Hearing.** No penalty, temporary suspension of voting rights (except for nonpayment of assessments), Notice of Claim of Breach, or other disciplinary action or action for which an Owner could be subject to monetary liability shall be imposed unless the Owner alleged to be in violation is given at least 15 days prior notice of the proposed penalty, action or temporary suspension and is given an opportunity to be heard before the Board or appropriate committee established by the Board with respect to the alleged violation(s). Written notice of the decision regarding disciplinary action shall be mailed to the Owner within 15 days of the hearing date and the discipline shall not become effective until 5 days after such mailing. Suspension of voting rights for non-payment of dues shall be effective only after notice is sent to the Owner setting forth the amount owing and the effective date of the suspension, but no hearing shall be required. The suspension shall remain in effect until the Owner's account is current.

12.3 **Attorney Fees.** The Association shall be entitled to recover its actual attorney fees and costs, including expert witness fees, incurred in enforcing the provisions of the Governing Documents, whether or not legal action, arbitration or mediation is instituted.

**12.4 Notice of Claim of Breach.** If provisions of law allow, the Association may, at any time that the Board deems a breach of these conditions and restrictions has occurred, after Notice to the Owner and after giving such Owner an opportunity for a hearing before the Board, cause to be executed and recorded in the office of the County Recorder of Riverside County, a Notice of Claim of Breach, setting forth: (a) the legal description of the Lot; (b) the name of the Owners of the Lot; and (c) the facts of such breach. Such Notice, upon being recorded, shall be notice to all persons of such breach. Upon the breach being cured, the Association shall cause to be recorded a Release of Notice of Breach upon payment by the defaulting Owner of a reasonable fee, to be determined by the Board, to cover the cost of preparing and recording such release.

**12.5 Painting, Maintenance, and Repairs.**

12.5.1 In the event that the Board, in its sole discretion after Notice and Hearing as provided in section 12.2, above, determines that painting, maintenance or repair (hereinafter referred to as "Work") on the exterior of a Living Unit or yard is reasonably necessary to preserve the appearance and value of such Living Unit or yard or the appearance or value of an adjoining Living Unit or yard, the Association shall give written notice of the necessity of such work to the Owner of such Living Unit or yard in which event said Owner shall be obligated, at his or her sole cost and expense, to perform such work and to thereafter notify the Association in writing of the completion of such Work.

12.5.2 If the Owner of such Living Unit shall have failed or refused to perform said Work within sixty (60) days after the aforesaid written notice, the Association may seek an injunction to compel the Work to be performed or the Association may cause the Work to be performed and incur such costs or expenses as may be necessary. Upon completion of such Work by the Association, the costs incurred shall become an assessment against the Lot and a personal obligation of the Owner of the Lot that may be enforced as provided in article 3 of this Declaration. If the Association declines to seek an injunction or to perform the Work, an adjoining Owner may seek such injunction and/or perform such Work and then apply to a court of competent jurisdiction for a judgment against the Lot upon which the Work has been performed, running in favor of the adjoining Owner, for all sums incurred in performing such Work, including costs and reasonable attorney fees. The Owner is deemed in violation of this Declaration until such Work is completed and during such period forfeits his voting right without further Notice or Hearing

## 12.6 Arbitration.

12.6.1 Binding Arbitration. In the event of a dispute between owners over the interpretation or enforcement of the restrictions contained in the Governing Documents, or, as between an Owner and an adjoining Owner as to the operation, maintenance, repair, insurance or any matter in connection with their premises, the same shall first be submitted to mediation and, if not so resolved, shall be submitted to binding arbitration before an Arbitrating Tribunal.

12.6.2 Arbitrating Tribunal. The Arbitrating Tribunal shall consist of three (3) persons selected by the Board from among the members of the Board, unless the Association is a party to the dispute. If the Association is a party to the dispute, unless the parties agree on a single arbitrator or organization (such as the American Arbitration Association, JAMS, et cetera), the Association shall select one (1) neutral arbitrator from among the Members of the Association who are not Board Members and the other party or parties shall collectively select one (1) neutral arbitrator from among the Members of the Association who are not Board Members. Those two selected arbitrators shall the select a third arbitrator who may, but need not be a Member of the Association.

- (a) The decision of a majority of the panel members shall be the decision of the Arbitrating Tribunal. Upon stipulation of the parties the matter may be heard by a lesser number of members of the Arbitrating Tribunal. After a hearing is commenced, if one or more panel members must withdraw because of illness or other reasons, the matter shall continue to be heard by the remaining panel members.
- (b) The Arbitrating Tribunal, in its discretion, shall be entitled to employ an attorney to act as a consultant in matters of procedure and to act as the chair at arbitration hearings. However, such attorney shall not be involved in making the substantive determination of the hearing panel. The cost of the services of such attorney may be included as an element of the award rendered by the hearing panel.



12.6.3 Rules of Arbitration. The Arbitrating Tribunal shall have complete control of the arbitration and may specify any rules or regulations with reference thereto not in conflict herewith. The decision of the Arbitrating Tribunal shall be final. The technical rules of evidence shall be waived in the discretion of the tribunal. The parties are entitled to be represented by counsel and to be heard, provided, however, that nothing herein contained shall limit the power of the Arbitrating Tribunal to control the manner, method, and conduct of the proceedings and the presentation of evidence, subject always to the requirement that the parties be given a fair and impartial hearing. All hearings shall be held within the County of Riverside, California. In any arbitration, the arbitrators shall have the broadest possible power permitted by law to frame their award or decision as to do substantial justice between or among the parties. Except as provided above, the arbitration procedures set forth in the California arbitration act statutes (CCP §§ 1282-1294.2) shall apply to the arbitration. All Owners, by acceptance of the deed to a Lot within the Properties, agree that they will faithfully observe the contents of this document and the rules and that they will abide by and perform any award or decision rendered and that a judgment of a court having jurisdiction may be entered upon the award.

**Article 13. Director and Officer Liability.** No director or officer of the Association may be personally liable to any of the Association's members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the Bylaws, provided that such director or officer has, upon the basis of such information as may be possessed by him or her, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

**Article 14. 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 same has been deposited in the United States Mail, postage prepaid, first class mail, addressed to each such person at the address of such person appearing on the books of the Association.

**Article 15. Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the real property and improvements thereon. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

**Article 16. Binding Effect.** This Restated Declaration, as well as any amendment hereto, and any action or directive made pursuant to it, shall be binding upon Owners and their heirs, grantees, tenants, successors and assigns.

**Article 17. Severability.** The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

**Article 18. Grandfathered Uses and Conditions.** Any use or condition existing upon any Lot as of the Effective Date of this Declaration, if not prohibited under the Original Declarations, may continue. But such non-conforming use or condition may not be expanded or thereafter recommenced if discontinued.

**Article 19. Effective Date.** This Amended and Restated Declaration shall be effective as of the date of its recordation in the Office of the County Recorder of Riverside County, California.

**Article 20. Governing Document Priorities.** In the event of a conflict between the Governing Documents, or any provision thereof, the documents shall take precedence in the following order: (a) this Declaration, (b) the Articles, (c) the Bylaws and (d) the Rules and Regulations.

\*\*\* END OF DOCUMENT \*\*\*



