

When Recorded, Return to:

Phillips, Maceyko and Battock, PLLC
5010 E. Shea Blvd., Suite 155
Scottsdale, AZ 85254

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE POTATO PATCH

WHEREAS, a document entitled Amended Protective Covenants, The Potato Patch, was recorded by the Potato Patch Owners Corporation, an Arizona Nonprofit Corporation (the "Association") on October 17, 2002 in Book 3967, Page 485, Official Records of Yavapai County, Arizona Recorder (the "Original Declaration"), governing the following property:

See EXHIBIT "A" attached hereto

WHEREAS, the Association, by and through its members, wishes to amend, restate and replace the Original Declaration in its entirety as set forth herein;

NOW THEREFORE, the Association hereby declares that all of the Property described in Exhibit A hereto (collectively, the "Property" or the "Project") shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any rights, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1
DEFINITIONS

"Articles" shall mean the Articles of Incorporation of the Association which have been filed in the Office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

"Association" shall mean Potato Patch Owners Corporation, an Arizona nonprofit corporation, its successors and assigns.

"Association Rules" shall mean the rules and regulations adopted by the Board, as the same may be amended from time to time.

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

"Building Committee" shall mean the committee established by the Board pursuant to Section 2.4 of this Declaration.

"Building Committee Rules" shall mean the rules adopted by the Building Committee, as said rules may be amended from time to time.

"Bylaws" shall mean the Bylaws of the Association as such Bylaws may be amended from time to time.

"Common Area" shall mean the Community Recreation Area, and any other real property (and all Improvements located thereon) owned by the Association for the common use and enjoyment of the Owners.

"Community Recreation Area" shall mean the property described in Exhibit A hereto, as indicated, which is owned by the Association as part of the Common Area for the common use and enjoyment of the Owners.

"Declaration" shall mean the covenants, conditions and restrictions herein set forth in this entire document, as the same may from time to time be amended.

"Eligible Votes" shall mean the votes of Members who are in good standing and whose right to vote in the Association are *not* under suspension on account of delinquency or violation of the Project Documents.

"Improvement" shall mean buildings, roads, driveways, parking areas, fences, walls, rocks, and all other structures of every type and kind.

"Lot" shall mean: (i) any parcel of real property designated as a Lot on a Plat; and (ii) Parcel G, as described in Exhibit A hereto, both to include any Improvements constructed thereon.

"Member" shall mean any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

"Owner" shall mean the record owner whether one or more persons or entities, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include: (i) the purchaser of a Lot under an executory contract for the sale of real property, (ii) persons or entities having an interest in a Lot merely as security for the performance of an obligation, or (iii) a lessee or tenant of a Lot. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the Owner. In the case of Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement the beneficiary of any such trust shall be deemed to be the Owner.

"Plat" shall mean, both individually and collectively: (i) the plat of THE POTATO PATCH, recorded in Book 9 of Maps, Page 80, Official Records of Yavapai County, Arizona Recorder; (ii) the plat of POTATO PATCH UNIT 2, recorded in Book 13 of Maps, Page 48, Official Records of Yavapai County, Arizona Recorder; (iii) the plat of POTATO PATCH UNIT 3, recorded in Book 16 of Maps, Page 27, Official Records of Yavapai County, Arizona Recorder;

(iv) the plat of POTATO PATCH UNIT 4, recorded in Book 16 of Maps, Page 28, Official Records of Yavapai County, Arizona Recorder, as any of the foregoing may be amended from time to time.

"Project Documents" shall mean this Declaration and the Articles, Bylaws, Association Rules and Building Committee Rules.

"Property" or "Project" shall mean all of the real property described in Exhibit A attached hereto.

"Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption; or a group of persons not all so related, who maintain a common household in a dwelling unit on a Lot.

"Single Family Residential Use" shall mean the occupation or use of a residence by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

"Visible From Neighboring Property" shall mean with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE 2 **THE ASSOCIATION**

Section 2.1. Rights, Powers and Duties. The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration, together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in this Declaration.

Section 2.2. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers and Committees as the Board may elect or appoint, in accordance with the Articles and the Bylaws.

Section 2.3. Association Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations. The Association Rules may restrict and govern the use of any area within the Property by any Owner, by the family of such Owner, or by any invitee, guest, licensee or lessee of such Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 2.4. Building Committee. The Board shall establish Building Committee consisting of not less than three (3) Members appointed by the Board to regulate the external design, appearance and use of the Property and to perform such other functions and duties as may

be imposed upon it by this Declaration or the Board. The Board may appoint, remove and replace members of the Building Committee in its sole discretion. The chairperson of the Building Committee shall be a member of the Board.

Subject to approval by the Board, the Building Committee may promulgate guidelines addressing architectural standards, requirements and procedures for architectural review (the "Building Committee Rules").

ARTICLE 3 **MEMBERSHIP**

Section 3.1. Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his/her ownership ceases for any reason, at which time his/her membership in the Association shall automatically cease.

Section 3.2. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the legally valid transfer of title to a Lot. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.

ARTICLE 4 **VOTING RIGHTS**

Section 4.1. Voting Rights. Members shall be all Owners of Lots. Each Member shall be entitled to one (1) vote for each Lot owned. In the event that an Owner also owns a portion of an adjacent Lot, that Owner shall be entitled to a fractional vote for the portion of such Lot owned. By way of example only, if the Owner of Lot 1 owns one-half (1/2) of Lot 2 and the Owner of Lot 3 owns the other one-half (1/2) of Lot 2, each such Owner shall be entitled to a total of one and one-half (1½) votes with respect to such Lots.

There are a total of one hundred thirty-three (133) Lots in the Association, and a total of one hundred thirty-three (133) votes in the Association, regardless of any Lot combinations and regardless of fractional ownership of any Lot. In no event shall there be more than one (1) vote per Lot.

Section 4.2. Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members.

Section 4.3. Entity Ownership. In the event any Lot is owned by a corporation, partnership or other entity, the entity shall be a Member. If any individual casts a ballot on behalf of an entity Owner representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he/she was acting with the authority of, and on behalf of, the entity.

Section 4.4. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any assessments or other amounts due under any of the provisions of the Project Documents for a period of thirty (30) days, or in the event said Owner's Lot is in violation of the Project Documents and the Owner has failed to bring the Lot into compliance after notice and an opportunity to cure, the Board shall have the option to suspend said Owner's right to vote as a Member of the Association, until all payments, including accrued interest and attorneys' fees, are brought current and any violations of the Project Documents are cured.

ARTICLE 5

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association: (1) annual assessments, and (2) special assessments. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not apply to the Owner's successors in title unless expressly assumed by them.

Section 5.2. Purpose of the Assessments. The assessments levied by the Association shall be used for: (1) the upkeep, maintenance and improvement of the Common Area and such other property and Improvements located thereon that the Association is responsible for maintaining pursuant to this Declaration, and (2) promoting the recreation, health, safety and welfare of the Owners and residents of Lots within the Property.

Section 5.3. Annual Assessment. The annual assessment amount for the 2020 fiscal year is \$147.00 per Lot. Any increase in the annual assessment above the limit set forth in A.R.S. 33-1803(A) shall require the approval of the Members.

Section 5.4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital Improvement on the Common Area, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any such special assessment has been approved by a vote of at least two-thirds (2/3) of those Members who are voting (in person or by absentee ballot) at a meeting duly called for such purpose. Written notice of any meeting called for the purpose of approving a special assessment shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members (in person or by absentee ballot) holding at least sixty percent (60%) of the Eligible Votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be Members holding at least thirty percent

(30%) of the Eligible Votes in the Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.5. Uniform Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots, based on the one hundred thirty-three (133) Lots in the Association, regardless of any Lot combinations or fractional ownership of any Lot. An Owner's assessment obligation shall be based on the number of Lots (or portion thereof) owned by such Owner in the same manner as voting rights pursuant to Section 4.1 of this Declaration.

Section 5.6. Assessment Due Dates. 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. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 5.7. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the assessment first became due shall be subject to a late fee up to the amount permitted by statute. Any assessment which is delinquent shall become a continuing lien on the Lot against which such assessment was made. The Association may record a "Notice of Claim of Lien" against the Lot of a delinquent Owner, however, recordation of the same shall not be necessary to perfect the lien. The Association shall not be obligated to release any lien recorded pursuant to this Section until all delinquent assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Association's lien shall have priority over all liens or claims created subsequent to the recordation of the Notice of Claim of Lien except for: (i) tax liens for real property taxes on the Lot, (ii) assessments on any Lot in favor of any municipal or other governmental body, and (iii) any first mortgage against the Lot.

The Association shall have the right, at its option, to enforce collection of any delinquent assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Owner personally obligated to pay the delinquent assessments and such action may be brought without waiving any lien securing any such delinquent assessments, or (b) bringing an action to foreclose its lien against the Lot in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

Section 5.8. No Exemptions. No Owner of a Lot may exempt themselves from liability for annual or special assessments levied against their Lot or for other amounts which they may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area facilities or by the abandonment of the Lot.

Section 5.9. Maintenance of Reserve Fund. Out of the annual assessments, the Association shall establish and maintain a reserve fund for the periodic maintenance, repair and replacement

of Improvements to the Common Area and any other areas that the Association maintains pursuant to this Declaration.

ARTICLE 6

PERMITTED USES AND RESTRICTIONS

Section 6.1. Residential Use. All Lots shall be used, improved and devoted exclusively to Single Family Residential Use. No gainful occupation, profession, trade, business, or other non-residential use shall be conducted on any Lot, except that an Owner or other resident of a Lot may conduct a business activity upon the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the Lot; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Lot; (iii) the business activity does not involve the door-to-door solicitation of Owners or other residents in the Property; (iv) no on-street parking occurs relating to the business activity; and (iv) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other residents in the Property, as may be determined from time to time in the sole discretion of the Board. Furthermore, no advertising or directional signs may be placed upon the Lot or any portion of the Common Areas regarding the business activity.

Section 6.2 Leasing. An Owner may lease only their entire Lot, only to a Single Family, and only in accordance with applicable law, codes, ordinances and the Project Documents. No subleasing shall be permitted.

Except as set forth below, all leases must be for a minimum term of thirty (30) days.

Notwithstanding the foregoing, upon providing documentation to the Association evidencing the same, an Owner who is leasing their Lot for periods of less than thirty (30) days at the time this Declaration is adopted may continue to lease the Lot for such periods until such Owner no longer owns the Lot. Thereafter, the new Owner will be subject to the thirty (30) day leasing restriction set forth herein.

All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Project Documents, and any failure by the lessee to comply with the terms of the Project Documents shall be a default under the lease. Prior to executing a lease, an Owner shall give the lessee copies of the Project Documents. Within five (5) days of leasing the Lot, an Owner shall notify the Association of the commencement date and termination date of the lease, the name and contact information for any adults occupying the Lot, and a description and license plate numbers of the tenants' vehicles. The Owner shall provide this information to the Association by completing a rental registration form and submitting it to the Association's management company, unless the Board requires such information to be provided in a different manner.

Section 6.3 Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes.

No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. All dog owners shall keep their dogs on a leash of no more than six (6) feet in length at all times when outside of the Lot. All pet owners are responsible for ensuring that their pet is under their control at all times. All pet owners shall ensure that their pet(s) are properly licensed and vaccinated, and are in compliance with all requirements of local ordinances or health codes.

Section 6.4. Antennas and Satellite Dishes. No radio, television, satellite or other antennas or devices of any kind or nature, or device for the reception or transmission of television, radio, microwave or other similar signals, shall be placed or maintained upon any Lot except those devices covered by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, will be permitted as provided herein. Any such device shall comply with any Association Rules governing antenna installation and shall be mounted, to the extent reasonably possible, so as to not be Visible From Neighboring Property. The devices governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule) as of the date of the recording of this Declaration are as follows: (i) Direct Broadcast Satellite ("DBS") antennas one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite; (ii) Multi-point Distribution Service ("MDS") antennas one meter or less in diameter or diagonal measurement, designed to receive video programming services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite; (iii) Antennas designed to receive local television broadcast signals ("TVBS"); and (iv) Antennas designed to receive and/or transmit data services, including Internet access. If the FCC expands the types of antennas that fall under the FCC Rule, this Section shall encompass those antennas as well.

Section 6.5. Improvements and Alterations. No Improvement (including but not limited to buildings, fences, screening, walls, residences, porches, decks, balconies, sheds, garages, gazebos, pergolas or other structures) shall be commenced, erected, improved, altered, made or done until plans evidencing the locations, specifications, proposed materials, dimensions and finishes are submitted to and approved in writing by the Building Committee. The Building Committee shall respond in writing to an Owner's completed submission within thirty (30) days.

No change or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Building Committee. An Owner aggrieved by the decision of the Building Committee may appeal such decision to the Board of Directors in writing within sixty (60) days of the issuance of the decision by the Building Committee. The Board shall respond to the Owner's appeal request in writing within thirty (30) days of receipt of such appeal request.

No residence shall contain less than 800 above grade livable square feet, exclusive of porches, balconies, decks, pergolas or garages.

Section 6.6. Sanitation Facilities. All dwellings used for residential purposes shall install flush toilets. All bathrooms, toilets, and sanitary facilities shall be located inside of the buildings permitted hereunder, and shall be connected to sewage disposal systems constructed and maintained in accordance with the applicable requirements and standards of Yavapai County and

the State of Arizona. All such sanitation facilities and improvements shall be designed, constructed or maintained as necessary to prevent freezing and pipe bursts.

Section 6.7. Temporary Occupancy. During the construction of the main residential dwelling, a detached garage, guest house, motor home or trailer may be used for occupancy during a construction period not to exceed one (1) year following the issuance of the building permit for the main residential dwelling. Except as set forth above, no other temporary building shall be erected or used on any Lot.

Section 6.8. Motor Vehicles; Parking. Except upon prior written Board approval, no campers, recreational vehicles, boats or motor homes may be parked on any Lot so as to be Visible From Neighboring Property for more than seventy-two (72) consecutive hours. No inoperable vehicles or machinery shall be stored on any Lot. Any motor vehicle operated in the Property must be operated by a licensed operator. All vehicles shall have required licenses and current registration. The Association Rules may further regulate parking of motor vehicles within the Project.

Section 6.9. Nuisances; Debris; Construction Activities. No building materials, unsightly accumulations, rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot or other portion of the Property, and no odors shall be permitted to arise therefrom, so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. During construction activities approved by the Building Committee, tools, machinery and equipment shall be stored so as to not be Visible From Neighboring Property.

No nuisance shall be permitted to exist or operate upon any such Lot so as to be offensive or detrimental to any other Lot in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot. All residents, their guests and contractors shall observe the quiet hours required by local ordinance, or as otherwise set forth in the Association Rules.

Section 6.10. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or other portion of the Property except in covered containers of a type, size and style which are approved by the Building Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property, except to make the same available for collection and then, only for the shortest time reasonably necessary to effect such collection.

Section 6.11. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall be screened from view so as to not be Visible From Neighboring Property.

Section 6.12. Machinery and Equipment. Except as permitted in the Association Rules, no machinery or equipment of any kind shall be stored upon or adjacent to any Lot or other portion of the Property so as to be Visible From Neighboring Property.

Section 6.13. Signs. No signs whatsoever shall be erected or maintained anywhere on the Property without the prior written approval of the Board, including but not limited to, the inside or outside of windows in any building, except for: (i) commercially-produced "For Sale", "For Rent/Lease" and "Open House" signs and sign riders in conformance with the industry standard size; (ii) signs as may be required by legal proceedings; (iii) signs which must be permitted by law.

Section 6.14. Planting and Landscaping. Any landscaping or plantings on the Lots shall be of a natural and informal type compatible with the natural surroundings, and subject to any applicable Building Committee Rules governing landscaping.

Section 6.15. Mineral Exploration. No portion of the Property shall be used in any manner to explore for or to remove any oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

Section 6.16. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 6.17. No Further Subdivision. None of the Lots shall be subdivided into smaller lots or parcels. Any combination of portions of two (2) or more Lots into a larger lot must be approved by the Association. In the event two (2) or more Lots are combined, the assessments shall be levied based on the original Lot classification, totaling one hundred thirty three (133) Lots in the Project. In other words, if two (2) Lots are combined, the Owner of such combined Lots shall pay two (2) assessments.

Section 6.18. Setbacks; Encroachments. No building, exclusive of roof overhang, shall be located within ten feet (10') of any property line, except where topography or natural growth prohibit, where a waiver has been provided by Yavapai County, or as approved by the Building Committee. Any existing violations at the time this Declaration is adopted will be "grandfathered" in upon approval of the Building Committee.

Section 6.19. Fire Protection. All outdoor fires, whether for cooking, trash burning or other purposes are considered dangerous and are not permitted unless confined to a well-constructed and protected fireplace or incinerator, subject to approval by the Building Committee. All fireplaces, chimneys and outlets from stoves, heating appliances and outside fireboxes must provide for protection from flying sparks by screening or other adequate spark-arresting facilities. All applicable fire protection regulations and directives must be observed and complied with at all times, including but not limited to, the U.S. Forest Service, Yavapai County and Walker Fire, and including prohibitions on fires during times of drought, high winds or fire danger.

Section 6.20. Prohibition of Residency by Sex Offenders. Notwithstanding anything in the Project Documents to the contrary, no individual who is required to be registered pursuant to A.R.S. §13-3821 (as may be amended or recodified) and who is classified as a level two or three offender, shall be permitted to reside on any Lot.

Section 6.21. Prohibition on Smoking in the Common Area. No smoking of any substance (including, but not limited to, cigarettes and marijuana) shall be permitted in the Common Area.

ARTICLE 7

EASEMENTS AND PROPERTY RIGHTS

Section 7.1. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area. Said easement shall be appurtenant to and shall pass with the title to every Lot subject to the right of the Association to adopt reasonable rules and regulations governing the use of the Common Area and all facilities located thereon.

Section 7.2. Delegation of Use. Any Owner may delegate, subject to the Project Documents, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, tenants, guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times, and in accordance with any applicable Association Rules. The Owner shall provide a copy of this Declaration and the Association Rules to any such individuals, and the Owner shall be liable for any violations committed by such individuals.

Section 7.3. Limitations. An Owner's right and easement of enjoyment in and to the Common Area shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot. Such right and easement of enjoyment in and to the Common Area shall be deemed to be transferred upon the transfer of title to any Owner's Lot.

Section 7.4. Association's Right of Entry. Subject to the requirements below, any member of the Building Committee, any member of the Board, or any authorized representative of them, shall have the right to enter upon and inspect any Lot, excluding the interior of any residence located thereon, for the purpose of making inspections to determine whether the provisions of the Project Documents are being complied with. Before exercising such right, the Association shall provide the Owner with written notice outlining the following: (i) the provision(s) of the Project Documents that is suspected to be in violation; (ii) the requirements to bring the Lot into compliance; (iii) a reasonable timeframe in which to bring the Lot into compliance; and (iv) an opportunity to schedule a meeting with the Board to discuss. In the event the Owner fails to bring the Lot into compliance by the deadline set forth in the original notice, the Association may proceed with a subsequent written notice to the Owner of the intended date and time for entry and inspection of the Lot, which notice must be sent at least ten (10) days prior to the entry and inspection.

Section 7.5. Association's Easement for Performing Maintenance Responsibilities. The Association shall have an easement upon, across, over and under the Common Area and the Lots for the purpose of repairing, maintaining and replacing the Common Area and any other property that the Association maintains pursuant to the Project Documents.

ARTICLE 8

MAINTENANCE

Section 8.1. Maintenance of Common Area by the Association. The Association shall be responsible for the maintenance, repair and replacement of the Common Area. The Board shall

be the sole judge as to the appropriate maintenance of the Common Area and may, without any approval of the Owners being required, do any of the following:

- (a) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area;
- (b) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway, wall, and parking area;
- (c) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (d) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;
- (e) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

Section 8.2. Maintenance By Owners. Each Owner shall be solely responsible for the maintenance, repair and replacement of the Lot owned by such Owner, and any Improvements thereon. Each Owner shall be responsible for taking reasonable measures to control pests on their Lot.

Section 8.3. Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area or interfere with the activities of the Association in connection therewith. No Owner shall in any way interfere with the maintenance responsibilities of the Association. Any reasonable expenses incurred by the Association by reason of any such act of an Owner (or such Owner's family, tenants, guests or invitees) shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor under Arizona law, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as unpaid assessments.

ARTICLE 9 **INSURANCE**

Section 9.1. Scope of Coverage. The Association shall maintain adequate insurance coverage, including: (i) officers and directors' liability, (ii) property casualty coverage for the Common Area and the Improvements thereon; (iii) general liability; and (iv) fidelity.

Section 9.2. Repair and Replacement of Damage or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless: (a) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (b) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the

Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be distributed to the Owners on the basis of an equal share for each Lot.

ARTICLE 10

GENERAL PROVISIONS

Section 10.1. Enforcement. The Project Documents may be enforced by the Association, through its Board, which shall have the right, but not the duty, to expend Association monies in pursuance thereof, and also may be enforced by any Owner, except no Owner shall have the right to enforce the obligation to pay assessments. This right of enforcement shall be in any manner provided for in this Declaration or by law or in equity, including, but not limited to imposition of reasonable monetary penalties and commencing an action to obtain an injunction to compel removal of any Improvements constructed or altered in violation of this Declaration or to otherwise compel compliance with the Project Documents. The Board shall have the authority to adopt an Enforcement Policy and accompanying Monetary Penalty Schedule.

Nothing herein shall be construed as meaning that damages are an adequate remedy where equitable relief is sought. Each remedy provided by this Declaration is cumulative and not exclusive. Failure by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(a) **Notice of Violation.** In addition to any other remedy available, the Association shall have the right to record a written notice of a violation by any Owner or resident of any restriction or other provision of the Project Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information: (i) the name of the Owner or resident violating, or responsible for the violation of, the Project Documents; (ii) the legal description of the Lot against which the notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation. Recordation of a notice of violation shall serve as notice to the Owner and resident(s), and any subsequent purchaser of the Lot, that there is such a violation. If, after the recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice has been cured, the Association shall record a notice of compliance which shall state the legal description of the Lot against which the notice of violation was recorded, and the recording data of the notice of violation, and shall state that the violation referred to in the notice of violation has been cured or that the violation did not exist.

(b) **Costs of Enforcement.** In the event the Association acts to enforce the Project Documents, regardless of whether suit is filed, the Association shall be entitled to recover, in addition to any other remedy, reimbursement for attorneys' fees, court costs and other related expenses incurred in connection therewith. Said attorneys' fees, costs and expenses shall be collectible against the Owner in the same manner as unpaid assessments. If, however, a lawsuit is

filed and the Owner is the prevailing party in such lawsuit, the Owner shall not be required to pay the Association's attorneys' fees, court costs and other related expenses.

Section 10.2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10.3. Amendment. This Declaration may be amended by the vote of Owners representing at least sixty-seven percent (67%) of the Eligible Votes cast at an Annual or Special Meeting of the Members at which quorum is established. Notwithstanding the foregoing, this Declaration may be amended by the Board without membership approval solely for the purpose of complying with changes in the law. Any amendment must be recorded.

Section 10.4. Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

Section 10.5. Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

Section 10.6. Binding Effect. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof.

Section 10.7. Topic Headings. The marginal or topical headings of the sections contained in this Declaration re for convenience only and do not define, limit or construe the contents of the sections or this Declaration.

Section 10.8. Liability of Owner. Each Owner shall be liable for all actions, including violations of the Project Documents, committed by their tenants, family members, guests and invitees while at the Property.

Section 10.9. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, Association Rules or Building Committee Rules, the provisions of this Declaration shall prevail.

Section 10.10. Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners set forth in or imposed by this Declaration, shall be joint and several.

CERTIFICATION

IN WITNESS WHEREOF, the President of the Association hereby certifies that the provisions contained with this Amended and Restated Declaration have been approved by Owners of the required percentage of Lots.

DATED this 15 day of December, 2022.

POTATO PATCH OWNERS CORPORATION,
an Arizona non-profit corporation

By Kurt Bowser
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 15th day of December, 2022, before me personally appeared Kurt Bowser, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and who acknowledged that he/she signed this document.

[Signature]
Notary Public

Notary Seal:

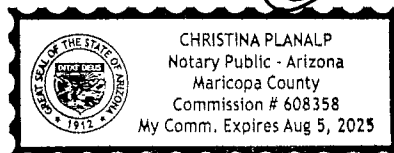


EXHIBIT A

Property Subject to this Declaration

Lots 1 through 29 inclusive, THE POTATO PATCH, according to the Plat recorded in Book 9 of Maps, Page 80, Official Records of Yavapai County, Arizona Recorder;

Lots 30 through 63 inclusive, THE POTATO PATCH UNIT 2, according to the Plat recorded in Book 13 of Maps, Page 48, Official Records of Yavapai County, Arizona Recorder;

Lots 64 through 94 inclusive, and Tract A, THE POTATO PATCH UNIT 3, according to the Plat recorded in Book 16 of Maps, Page 27, Official Records of Yavapai County, Arizona Recorder;

Lots 95 through 132 inclusive, THE POTATO PATCH UNIT 4, according to the Plat recorded in Book 16 of Maps, Page 28, Official Records of Yavapai County, Arizona Recorder;

Parcel G Legal Description (APN 205-14-234A)

Parcel G of the POTATO PATCH, this tract being a part of the HASSAYAMPA AND RANCHE MINING CLAIMS, M.S. 1556, HASSAYAMPA MINING DISTRICT, patent to which is recorded in Book 63 of Deeds, Page 518, Office of the Recorder, Yavapai County, Arizona.

Parcel G is described as follows:

BEGINNING at corner #2, the most Northerly corner of the HASSAYAMPA CLAIM;

Thence South 58 degrees, 57 minutes East, 312.27 feet along the Northerly line of said HASSAYAMPA CLAIM;

Thence South 58 degrees, 17 minutes East, 127.73 feet along the Northerly line of said HASSAYAMPA CLAIM to the TRUE POINT OF BEGINNING;

Thence South 58 degrees, 17 minutes East 171.38 feet to Corner#3 of said HASSAYAMPA CLAIM;

Thence South 58 degrees, 33 minutes East, 297.74 feet to the North Center end of the RANCHE PATENTED MINING CLAIM, SURVEY #1556;

Thence South 58 degrees, 36 minutes East, 142.53 feet along the Northerly line of said RANCHE CLAIM;

Thence South 62 degrees, 13 minutes, 40 seconds West, 322.21 feet to a shaft;

Thence South 51 degrees, 15 minutes, 10 seconds West, 90.05 feet to the Southeast corner of Lot 25, of the POTATO PATCH subdivision, as shown on the plat recorded in Book 9, of Maps, Page 80, Yavapai County Recorder's Office.

Thence North 11 degrees, 10 minutes West, 108.00 feet to the Northeast corner of said Lot 25;

Thence North 22 degrees, 04 minutes West, 111.94 feet to the Northeast corner of Lot 24 of said POTATO PATCH SUBDIVISION;

Thence North 18 degrees, 03 minutes West, 332.80 feet to the TRUE POINT OF BEGINNING.

Community Recreation Area Legal Description (APN 205-14-234C)

All that portion of the HASSAYAMPA and RANCHE MINING CLAIMS, Survey #1556, located in the Hassayampa Mining District, Patent to which is recorded in Book 63 of Deeds, Page 518, in the Office of the County Recorder, Yavapai County, Arizona, Described as follows:

BEGINNING at Corner #2, the Northernmost corner of the HASSAYAMPA Mining Claim;

Thence South 58° 57' East 85 feet to the POINT OF BEGINNING;

Thence South 58° 57' East 227.27 feet along the Northeasterly Line of said claim;

Thence South 58° 17' East 127.73 feet along the Northeasterly line of said claim;

Thence South 18°01'56" East (S. 18°03' E. 332.80 Record) 331.80 feet to the Northernmost corner of Lot 24 of the POTATO PATCH subdivision;

Thence South 56°30' West 137.00 feet;

Thence North 23°13' West 25.41 feet (26.41 Record);

Thence North 47°31' West 129.08 feet;

Thence North $27^{\circ}19'$ West (N. $27^{\circ}29'$ W. Record) 128.70 feet;

Thence North $31^{\circ}56'$ West 151.50 feet;

Thence North $03^{\circ}22'$ West 151.40 feet;

Thence North $58^{\circ}32'$ West 65 feet;

Thence North $28^{\circ}33'$ East 39.72 feet to the POINT OF BEGINNING.