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**CONDOMNIUM DECLARATION AND DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

FOR

THE PLAZA RESIDENCES, A CONDOMINIUM

December 9, 2005

**DISCLOSURE: THIS DECLARATION CONTAINS ALTERNATIVE DISPUTE
RESOLUTION PRCOEDURES THAT ARE APPLICABLE TO CLAIMS AND
DISPUTES ARISING OUT OF OR UNDER THIS DECLARATION. THESE
ALTERNATIVE DISPUTE RESOLUTION PROCEDURES ARE CONTAINED IN
ARTICLE XI OF THIS DECLARATION.**

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**CONDOMINIUM DECLARATION
AND
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE PLAZA RESIDENCES, A CONDOMINIUM**

THIS CONDOMINIUM DECLARATION AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION FOR THE PLAZA RESIDENCES, A CONDOMINIUM (this "**Declaration**"), is made as of the 9th day of December, 2005, by The Plaza Residences, LLLP, an Arizona limited liability limited partnership (the "**Declarant**").

RECITALS

A. Declarant is the fee owner of that certain real property situated in the City of Scottsdale, County of Maricopa, State of Arizona, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Parcel**").

B. Declarant desires to establish a plan for a permanent residential community on the Parcel to be owned, occupied and operated for the use, health, safety and welfare of its resident owners and occupants, and for the purpose of preserving the value, the amenities, the structural quality, and the original architecture and aesthetic character of the community on the Parcel.

C. Declarant will incorporate The Plaza Residences Owners' Association under the laws of the State of Arizona as a non-profit corporation for the purpose of acting as a homeowners association, with the duty and power of maintaining, administering and enforcing the covenants, conditions, restrictions and its easements and collecting and enforcing the assessments and charges hereinafter created and imposed.

ARTICLE 1

DEFINITIONS

1.0 Definitions. Capitalized and other terms not otherwise defined in this Declaration shall have the meanings specified for such terms in the Condominium Act. The following capitalized terms shall have the general meanings ascribed to them in the Condominium Act and for purposes of this Declaration shall have the specific meanings set forth below:

"**Agency**" means any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments including, without limitation, the Federal Home Loan Mortgage Corporation, the

Federal National Mortgage Association, the Veteran's Administration, and the Federal Housing Administration.

"A.R.S." means the Arizona Revised Statutes, as amended or re-codified from time to time.

"Articles" means the Articles of Incorporation of the Association, as they may be amended from time to time.

"Assessment Lien" means the lien granted to the Association by the Condominium Act to secure the payment of Assessments, monetary penalties and other charges owed to the Association by a Unit Owner.

"Assessments" means the Common Expense Assessments, Special Assessments and User Fee Assessments levied and assessed against each Unit pursuant to this Declaration.

"Association" means the Arizona non-profit corporation organized by Declarant to administer and enforce the Condominium Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns. Declarant intends to organize the Association under the name **"The Plaza Residences Owners' Association,"** but if such name is not available, Declarant may organize the Association under such other name as Declarant deems appropriate.

"Base Amount" means the sum of One Hundred Seventy and No/100 Dollars (\$170.00) for the 1 bedroom Units, the sum of One Hundred Ninety-Five and No/100 Dollars (\$195.00) for the 2 bedroom Units and the sum of Two Hundred and Ten and No/100 Dollars (\$210.00) for the 3 bedroom Units. In addition, Unit Owners that have a Garage Space (as hereinafter defined) shall pay an additional \$10.00 per month.

"Board" or "Board of Directors" means the Board of Directors of the Association.

"Buildings" means the twenty-six (26) buildings located on the Parcel in which the Units are contained and which constitute a part of the Property as more fully described and designated with reference to a Building type on the Plat (as hereinafter defined).

"Bylaws" means the Bylaws of the Association, as they may be amended from time to time.

"Common Elements" has the meaning defined in §33-1202(7) of the Condominium Act, including, without limitation, the roofs, walls and structural elements of the Buildings, Parking Spaces not assigned to any Unit, driveways, clubhouse, guard house, electric and sliding gates, perimeter fences, signs, parking areas, landscaped areas, parking structures, swimming pool, gazebos, ramadas, spa and associated recreational facilities (the "Recreational Facilities"), and all other portions of the Property pursuant to this Declaration, except the Units.

“Common Expense Assessment” means the assessment levied against a Unit pursuant to Section 7.3 of this Declaration.

“Common Expense Liability” means the liability for Common Expenses allocated to each Unit by this Declaration.

“Common Expenses” means expenditures made or financial liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

“Condominium” means the Parcel together with all Buildings (defined below) and other Improvements, Units, Limited Common Elements and Common Elements located on the Parcel and all easements, rights, and appurtenances belonging thereto. The name of the Condominium created by this Declaration is **“The Plaza Residences, A Condominium”**.

“Condominium Act” means the Arizona Condominium Act, A.R.S. Title 33, Chapter 9, §33-1201, et seq., as amended or re-codified from time to time.

“Condominium Documents” means this Declaration (including the Plat) and the Articles, Bylaws, Rules, and any other policies, rules and regulations concerning the Condominium adopted by the Association or the Board of Directors or any committee thereof.

“Conveyance Date” means the date of recordation of the deed conveying a Unit from Declarant to a Unit Owner.

“Declarant” means The Plaza Residences, LLLP, an Arizona limited liability limited partnership, its successors and assigns, any affiliate thereof which owns or markets any Units, and any Person to whom The Plaza Residences, LLLP, may transfer in writing any Special Declarant Rights.

“Declaration” means this entire document, as it may be amended from time to time, together with the Exhibits, and where appropriate by context, the Plat.

“Development Rights” means those certain specific rights or combinations of rights reserved by or granted to Declarant as described in Article 10.

“Eligible Insurer or Guarantor” means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters in accordance with this Declaration.

“Eligible Mortgage Holder” means a First Mortgagee who has requested notice of certain matters in accordance with this Declaration.

“First Mortgage” means any mortgage or deed of trust on a Unit with first priority over any other mortgage or deed of trust.

“First Mortgagee” means the holder of any First Mortgage.

“Garage Building(s)” means each of the twenty-six (26) Garage Buildings on the Parcel which are depicted on the Plat with reference to a “GB” and designated number, in which the Garage Spaces (as hereinafter defined) are located.

“Improvement(s)” means any physical structure, fixture or facility existing or constructed, placed, erected or installed on any portion of the land included in the Condominium, including, but not limited to, buildings, private streets, drainage and retention facilities, parking areas, recreational amenities, fences, walls, poles, signs, and all landscaping, including, but not limited to, hedges, plantings, trees and shrubs of every type and kind.

“Limited Common Elements” means any portion of the Common Elements specifically designated in this Declaration as a Limited Common Element, or specifically designated on the Plat as a “Limited Common Element” or “Restricted Common Element(s)” or “Restricted Parking Space(s)”, and allocated by this Declaration or by operation of the Condominium Act for the exclusive use of one or more, but fewer than all, of the Units.

“Member” means any Person who is or becomes a member of the Association.

“Parking Space(s)” means each of the separate parking spaces on the Parcel which are depicted on the Plat with reference to a “P” and designated number for an uncovered Parking Space, a “PC” and designated number for a covered Parking Space, and a “PH” and designated number (uncovered) or a “PCH” and designated number (covered) for a Parking Space for the handicapped. **“Restricted Parking Space(s)”** means:

- (A) A garage Parking Space (“Garage Space”) which is depicted on the Plat with reference to a “G” and designated number (standard width Garage Space) or a “GW” and designated number (extra width Garage Space) which has been set aside for the exclusive use and benefit of the Owner of a particular Unit by deed of conveyance from the Declarant to such Owner, as provided in Section 2.2.1 hereof,
- (B) A Parking Space which is depicted on the Plat with reference to a “P” and designated number (uncovered Parking Space) or a “PC” and designated number (covered Parking Space) which has been set aside for the exclusive use and benefit of the Owner of a particular Unit by deed of conveyance from the Declarant to such Owner, as provided in Section 2.2.1 hereof, and
- (C) A Parking Space designated by the Declarant or the Board of Directors for visitor parking (“Visitor Parking Space”). Visitor Parking Spaces include handicapped Parking Spaces depicted on the Plat with reference to a “PH” (uncovered handicapped Parking Space) or a “PCH” (covered handicapped Parking Space) which are not set aside for the exclusive use and benefit of a Unit Owner as provided in (B) above.

“Period of Declarant Control” means the time period commencing on the date this Declaration is recorded in the official records of the county recorder in which the Condominium is located, and ending on the first of the following: (i) the date which is ninety (90) days after the conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than the Declarant; (ii) four (4) years after Declarant has ceased to offer Units for sale in the ordinary course of business, or (iii) the date that the Declarant notifies the Board of Directors in writing that it is electing to conditionally or unconditionally terminate the Period of Declarant Control.

“Person” means a natural person, corporation, business trust, estate, trust, partnership, association, limited liability company, joint venture, government, government subdivision or agency, or other legal or commercial entity, and in the case of a subdivision trust, means the beneficiary of the trust who holds the right to subdivide, develop or sell the real estate rather than the trust or trustee.

“Plat” means the plat of the Property recorded at Book 796 of Maps, Page 20, records of Maricopa County, Arizona, and any amendments, supplements or corrections thereto.

“Property”, “Project” or “Development” means the Parcel, the Garage Buildings, the Buildings and the Units comprising the Condominium hereby created, together with all buildings, improvements and other permanent fixtures of whatsoever kind thereon, all rights and privileges belonging or in any way pertaining thereto and all furniture, furnishings, fixtures, machinery, equipment and appliances and personal property located thereon, intended for the mutual use, benefit and enjoyment of the Owners.

“Purchaser” means any Person, other than Declarant, who by means of a voluntary transfer becomes a Unit Owner except for (i) a Person who purchases a Unit and then leases it to Declarant for use as a model in connection with the sale of other Units or (ii) a Person who, in addition to purchasing a Unit, is assigned any Special Declarant Right.

“Reserve Contribution” means the contribution for reserves established pursuant to Section 7.11 of this Declaration.

“Rules” means any and all rules and regulations adopted by the Association, as such rules may be amended from time to time.

“Single Family” means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, together with their domestic servants, who maintain a common household in a Unit.

“Special Assessment” means the assessment levied against a Unit pursuant to Section 7.4 of this Declaration.

“Special Declarant Rights” means those certain specific rights or combinations of rights reserved by or granted to Declarant as described in Article 10.

“Unit” means each of the 348 portions of the Property contained in the Buildings which consist of one or more rooms and intended for independent use as a residential dwelling unit, as shown on the Plat, the boundaries of which are described in Section 2.1.2 hereof and on the Plat. A Unit includes an undivided interest in the Common Elements as set forth in Section 2.1.4 hereof and the right to use Common Elements and Limited Common Elements appurtenant to such Unit in accordance with the provisions of this Declaration. Each Unit’s identifying number is as set forth on the Plat.

“Unit Owner” or **“Owner”** means the owner of record, whether one or more Persons, 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 Unit. “Unit Owner” shall not include (i) Persons having an interest in a Unit merely as security for the performance of an obligation, or (ii) a lessee or tenant of a Unit. “Unit Owner” shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title to a Unit under which the seller is obligated to convey to the purchaser the remainder of seller’s title in the Unit, whether legal or equitable, upon payment in full of all monies due under the contract. “Unit Owner” shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contract which is intended to control the rights and obligations of the parties to the executory contract pending the closing of a sale or purchase transaction. In the case of a Unit the fee simple title to which is vested in a trustee pursuant to a deed of trust, the trustor shall be deemed to be the “Unit Owner.” In the case of a Unit the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar arrangement, the beneficiary of the trust who is entitled to possession of the Unit shall be deemed to be the “Unit Owner.”

“Visible From Neighboring Property” means, with respect to any given object, that all or a part of such object is or would be visible to an individual six (6) feet tall, standing on any portion of such neighboring property, or on any portion of the Condominium, as the case may be.

ARTICLE 2

SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATION OF COMMON ELEMENT INTERESTS; COMMON EXPENSE LIABILITIES AND VOTES; LIMITED COMMON ELEMENTS; EXPANSION OF CONDOMINIUM; DE-ANNEXATION

2.0 Submission of Property. Declarant hereby submits the real property described on Exhibit “A” attached to this Declaration and on the Plat, together with all Improvements, easements, rights and appurtenances thereto, to a condominium in accordance with the provisions of the Condominium Act and hereby discloses that the Parcel shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration. By acceptance of a deed or by acquiring any ownership interest in any portion of the Condominium, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the

provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by the Condominium Documents and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that the Condominium Documents set forth a general scheme for the improvement and development of the Condominium and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in the Condominium Documents shall run with the land and be binding on all subsequent and future Unit Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Person fully understands and acknowledges that the Condominium Documents shall be mutually beneficial, prohibitive and enforceable by the Association and the other rights created by the Condominium Documents which are appurtenant to a Unit shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

2.1 Description of the Buildings, the Units and the Common Elements. The entire Condominium shall be constituted of the Common Elements and the Units.

2.1.1 Buildings. Reference is hereby made to the Plat for a description of the Buildings and their location on the Parcel, the cubic content space of the Buildings shall be the cubic content space of the Units contained therein plus any Common Elements or Limited Common Elements contained therein and the cubic content space of the external walls, roofs and structural elements of the Buildings.

2.1.2 Units and Unit Boundaries.

(A) There are a total of 348 Units in the Buildings. The actual position of each Unit within a Building with respect to its location on the Parcel and a description of the cubic content space of each Unit is depicted on the Plat. Each Unit shall include the space enclosed and bounded by the interior unfinished surfaces of the ceiling or any extension of the elevation thereof, floor and any extension of the elevation thereof, perimeter walls and windows thereof (or, if there is no perimeter wall, then the interior boundary thereof), together with any utility systems which exclusively serve such Unit; provided, however, that no portion of the roof, bearing walls or other structural components of the Building in which each Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of a Unit.

(B) The physical boundaries of each Unit are the interior finished surfaces of the perimeter walls, floor, ceilings, doors and windows of the Unit except for any common wall shared with an adjoining Unit with: (i) the underside of the finished but undecorated ceiling as the top horizontal boundary; (ii) the top of the finished but undecorated flooring shall be the bottom horizontal boundary; and (iii) the interior of the finished but undecorated walls shall be the vertical boundaries. In the case of an interior common wall shared with an adjoining Unit the vertical boundary of that wall shall be to a depth equal to one-half of its width. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces are a part

of the Unit, and all other portions of the walls, floors or ceilings are a part of the Common Elements. The structural elements of exterior windows and doors shall be Limited Common Elements allocated to that Unit as provided below.

(C) If any chute, flue, duct, wire, conduit, utility line or pipe, bearing wall, bearing column, heating or air conditioning unit or apparatus or other fixture lies partially within and partially outside the boundaries of a Unit, any portion serving only that Unit is a Limited Common Element allocated solely to that Unit and any portion serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

(D) Subject to the provisions of subsection (C) of this Section, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are part of the Unit.

(E) Any exterior shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, entryways or patios, and all exterior doors and glass windows or other fixtures designed to serve a single Unit, but located outside of the Unit's physical boundaries, are Limited Common Elements allocated exclusively to that Unit.

(F) In the event of an inconsistency or conflict between the provisions of this Section and the Plat, this Section shall control.

(G) The physical boundaries of a Unit shall be considered to be the proper boundaries regardless of the settling, rising or lateral movement of the Building and regardless of any variances between the boundaries shown on the Plat and the actual physical boundaries.

(H) Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant and to reallocate each such Unit's Common Element interest, votes in the Association and Common Expense Liabilities subject to and in accordance with §33-1222 of the Condominium Act.

(I) All square footages of individual Units referenced by Declarant in marketing materials and brochures are approximate only and has been calculated from the centerline of common walls between adjoining Units and from the outside of exterior walls and corridor walls not shared with an adjoining Unit and include patio/balcony area and storage area.

(J) Each Unit shall include as an appurtenance thereto the exclusive right to use the storage area, patio area or balcony serving the Unit and the Restricted Parking Space(s) serving such Unit, which shall be Limited Common Elements as hereinafter provided in Section 2.2.

2.1.3 Common Elements. A description of the Common Elements included in and comprising parts of each Building is the description referred to in subparagraph 2.1.1 less the descriptions of the Units referred to in subparagraph 2.1.2. A description of the other Common Elements is as set forth in the definition of “**Common Elements**” in Article 1 and on the Plat.

2.1.4 Allocation of Interest in the Common Elements. The percentage interest which each Unit bears to the entire Condominium, which interest shall constitute an undivided interest in the Common Elements which is appurtenant to each such Unit, and the allocation of each Unit Owner’s Common Expenses Liability, shall be equal to the percentage interest appurtenant to all other Units and may be expressed as a fraction the numerator of which is one (1) and the denominator of which is the total number of Units (i.e., 348 Units).

2.2 Limited Common Elements.

2.2.1 Restricted Parking Spaces, Patios and Balconies. Associated with and appurtenant to each Unit as Limited Common Elements will be one (1) Garage Space (if so designated in the deed of conveyance from the Declarant to an Owner) and/or one (1) Restricted Parking Space or two (2) Restricted Parking Spaces, and one (1) patio or balcony, which shall be for the sole use and benefit of the Owner of the Unit of which it is a part. The Garage Space, if any, and the other Restricted Parking Space(s) shall be permanently assigned and designated to each Unit in the initial deed of conveyance of such Unit from the Declarant to an Owner. Such Garage Space, the other Restricted Parking Space(s) and patio or balcony shall be and remain appurtenant to such Unit and shall be conveyed with such Unit in any deed, deed of trust or other encumbrance, lease or other instrument creating or transferring any interest or estate in such Unit, whether or not expressly listed or provided in such instrument, and may not be separated or partitioned from such Unit. The Owner or other person legally entitled to the use of any Garage Space and the other Restricted Parking Space(s) shall be entitled to reasonable access thereto and to the use thereof for parking purposes, subject to such Rules as may be adopted by the Board of Directors from time to time. No Garage Space, Restricted Parking Space or patio or balcony or the right to use the same shall be sold, leased, mortgaged, assigned or otherwise transferred apart from the Unit to which it is appurtenant, as herein provided.

2.2.2 Visitor Parking Spaces. Visitor Parking Spaces shall be part of the general Common Elements and held available for additional parking by Owners and their visitors and invitees in accordance with Rules determined by the Board of Directors from time to time. The Board shall have full authority to establish, operate, manage and adopt Rules for any Visitor Parking Spaces. Notwithstanding anything in this Declaration to the contrary, the right of Unit Owners to park in Visitor Parking Spaces shall be governed by Rules for any Visitor Parking Spaces.

2.2.3 Storage Areas. Associated with and appurtenant to the Units will be one (1) storage area located in the patio/balcony area of the Units, which shall be for the sole use and benefit of the Owner of such Units of which it is a part. Such storage area shall be and remain appurtenant to such Units and shall be conveyed with such Units in any deed, deed of trust or other encumbrance, lease or other instrument creating or transferring any interest or estate in such

Units, whether or not expressly listed or provided for in such instrument and may not be separated or partitioned from such Units. The Owner of the Unit for which any storage area is set aside pursuant to this Section 2.2.3 shall have the sole and exclusive right to the use thereof subject to such Rules as may be adopted by the Board of Directors from time to time. Storage areas shall be kept in a net, clean and safe condition by the persons entitled to use them, and security and maintenance shall be the sole responsibility of the Owner entitled to use the same. The Association shall have absolutely no responsibility in the event of any theft, damage, destruction or other loss of anything kept in a storage area by any person. No flammable materials, poisonous or chemically active substances or other hazardous items shall be kept in any storage area. The Board of Directors shall be entitled to inspect storage areas without notice at any time and to correct any condition therein which constitutes a violation of this Declaration at the sole expense of the Owner entitled to use such storage area, but any damage caused by misuse of a storage area shall be the sole responsibility of the Owner entitled to use the same. No storage shall be permitted outside any Unit other than in a designated storage area.

2.2.4 Violations. Any attempt to sell, lease, mortgage, assign or otherwise transfer any Limited Common Elements or permit the use thereof contrary to the terms hereof shall be void and shall not be recognized by the Association, unless expressly approved by the Board of Directors.

2.3 No Partition. No Unit Owner shall have the right to a partition of his interest in the Unit and there shall be no judicial partition of the Condominium, or any part thereof. Nothing herein shall be deemed to prevent partition of a co-tenancy in any Unit.

ARTICLE 3

EASEMENTS

3.0 Utility Easements. There is hereby created an easement upon, across, over and under the Common Elements and the Units for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, water, sewer, electricity, telephone, cable television, communication systems and gas, but only to the extent needed to provide service to the Condominium. By virtue of this easement, it shall be expressly permissible for the providing utility company (or Declarant or the Association, in the event Declarant or the Association provides said services) to erect and maintain the necessary equipment and facilities on the Common Elements and the Units, but no sewers, electrical lines, water lines or other utility or service lines may be installed or located on the Common Elements and the Units except as initially designed and constructed therein by the Declarant, or thereafter as approved by the Board of Directors. This easement shall in no way affect any other recorded easements on the Common Elements.

3.1 Easements for Ingress and Egress. There are hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, stairs, paths, walks and lanes that from time to time may exist upon the Common Elements. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such

driveways and parking areas as from time to time may be paved and intended for such purposes except that such easements shall not extend to any Limited Common Elements. Such easements shall run in favor of and be for the benefit of the Unit Owners and occupants of the Units and their guests, families, lessees, tenants and invitees and in favor of the Declarant.

3.2 Unit Owners' Easements of Enjoyment of the Common Elements.

(A) Every Unit Owner shall have a right and easement of enjoyment in and to the Common Elements, except for any Limited Common Elements allocated to other Units, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(1) The right of the Association to adopt Rules governing the use of the Common Elements;

(2) The right of the Association to suspend the voting rights of a Unit Owner for any period during which any Assessment against his Unit remains delinquent, and in addition for a period of sixty (60) days (and for successive sixty (60) day periods if such infraction is not corrected during any preceding suspension period) for any other infraction or violation of the Condominium Documents;

(3) The right of the Association to suspend the right of a Unit Owner and any resident of its Unit to use the Common Elements for any period during which the Unit Owner is in violation of any provision of the Condominium Documents;

(4) The right of the Association to convey the Common Elements or subject the Common Elements to a mortgage, deed of trust, or other security interest, in the manner and subject to the limitations set forth in the Condominium Act, but in no event without the vote or written assent of those Unit Owners representing at least eighty percent (80%) of the votes in the Association, and of Declarant during the Period of Declarant Control; and in all events, subject to a Unit Owner's easement for ingress and egress if access to such Unit is through the Common Elements;

(5) The right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Unit Owners. No such dedication or transfer shall be effective unless an instrument signed by Unit Owners entitled to cast two-thirds (2/3) of the votes of the membership in the Association agreeing to such dedication or transfer have been recorded. The requirements of this Section shall not apply in the case of utility easements otherwise covered herein; and

(6) All rights and easements set forth in this Declaration, including, but not limited to, the specific rights and easements granted herein to Declarant.

(B) Notwithstanding the provisions of Section 3.2(A) of this Declaration to the contrary, if a Unit is leased or rented, the lessee or tenant and the members of the lessee's or tenant's family residing with the lessee shall have the right to use the Common Elements during the term of the lease, and the Unit Owner shall have no right to use the Common Elements until the termination or expiration of the lease.

(C) The guests and invitees of any Unit Owner or lessee, tenant or other person entitled to use the Common Elements pursuant to this Article may use the Common Elements provided they are accompanied at all times by a Unit Owner, lessee, tenant or other person entitled to use the Common Elements pursuant to this Article. The Board of Directors shall have the right to limit the number of guests and invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by guests and invitees to certain specified times.

(D) Unit Owner's right and easement of enjoyment in and to the Common Elements shall not be conveyed, transferred, alienated or encumbered separate and apart from a Unit. Such right and easement of enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Unit, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Elements shall be void unless the Unit to which that interest is allocated is also transferred in conjunction therewith.

3.3 Declarant's Use for Sales and Leasing Purposes.

(A) Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Condominium and to maintain one or more advertising or sales signs on the Common Elements for such period as the Declarant shall deem appropriate. Declarant reserves the right to place models, management offices, sales and leasing offices and signs on any Units owned or leased by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

(B) Declarant may from time to time relocate models, management offices, sales and leasing offices and signs to different locations within the Condominium. Upon the relocation of a model, management office, sales and leasing office or sign constituting a Common Element, Declarant may remove all personal property and fixtures therefrom.

(C) So long as Declarant is marketing Units in the Condominium, Declarant shall have the right to reserve the use of any parking spaces which are not allocated as Limited Common Elements to particular Units for use by prospective Unit purchasers,

Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

(D) Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Condominium that has not been represented as property of the Association. Declarant reserves the right to remove from the Condominium any and all goods and Improvements used in development, marketing and construction, whether or not they have become fixtures.

(E) In the event of any conflict or inconsistency between this Section and any other provisions of the Condominium Documents, this Section shall control and prevail over such other provisions.

3.4 Declarant's Development Rights and Easements.

(A) Declarant shall have the right and an easement on and over the Common Elements to construct, alter or improve the Common Elements and the Units shown on the Plat and all other Improvements Declarant may deem necessary, and to use the Common Elements and any Units owned or leased by Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Condominium.

(B) Declarant shall have an easement through the Units, the Limited Common Elements and the Common Elements for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

(C) Declarant shall have the right and an easement on, over, under and through the Limited Common Elements and the Common Elements as may be reasonably necessary for the purpose of discharging its obligations and exercising Special Declarant Rights whether arising under the Condominium Act or reserved in this Declaration. Without limitation, Declarant reserves the right to subdivide Units and to convert Units into Common Elements and Common Elements into Units subject to any further restrictions set forth in this Declaration and by applicable zoning ordinances.

(D) Declarant shall have the right to create additional Units, Common Elements and Limited Common Elements within the Condominium.

(E) Declarant shall have the right and an easement on, over and under those portions of the Common Elements for the purpose of establishing, maintaining and correcting drainage of surface, roof or storm water. Declarant may, by the act of construction thereof, create easements for drainage of surface, roof or storm water over any portion of the Common Elements in favor of a Unit or Units. An Owner shall not change any such drainage easement or facility established by Declarant, but the Association may do so with the approval of any necessary governmental entity and the

Owners of affected Units, and subject to such affected Unit Owners' assuming all risk related to such change. The easements created by this Section expressly include the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary in connection with any such drainage easement.

(F) To the extent not expressly reserved by or granted to Declarant by other provisions of this Declaration, Declarant reserves all Development Rights and Special Declarant Rights.

(G) In the event of any conflict or inconsistency between this Section and any other provision of the Condominium Documents, this Section shall control and prevail over such other provisions.

3.5 Declarant's Use of Recreational Facilities and Areas. The Declarant shall have the right to the exclusive use, without charge, of any portion of any Recreational Facilities and other recreational areas within the Common Elements on a short term basis for employee meetings, administrative purposes, special events or any other purpose, subject to the following: (i) the availability of the facilities at the time a request is submitted by Declarant to the Association; (ii) the Declarant shall indemnify the Association against any loss or damage resulting from Declarant's use thereof; and (iii) the Declarant shall return the facilities to the Association in the same condition as existed prior to Declarant's use thereof. The rights of the Declarant set forth in this Section shall be enforceable by injunction, by any other remedy in law or in equity and/or by any other means provided in this Declaration. In the event of any conflict or inconsistency between this Section and any other provision of the Condominium Documents, the provisions of this Section shall control and prevail over such other provisions.

3.6 Easement for Support. To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Building, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in the Building, the Common Elements and the Limited Common Elements.

3.7 Common Elements Easement in Favor of the Association. The Common Elements shall be subject to an easement in favor of the Association and the agents, employees and independent contractors of the Association for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements and for the purpose of exercising all rights of the Association and discharging all obligations of the Association. In addition, the Association may, in its discretion, grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes necessary for the operation of the Condominium.

3.8 Units and Limited Common Elements Easement in Favor of Association. The Units and any Limited Common Elements are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

(A) For inspection, at reasonable times and upon reasonable notice to the Unit Owner, of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible.

(B) For inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from such Units or Limited Common Elements.

(C) For correction of emergency conditions in one or more Units or Limited Common Elements or casualties to the Common Elements, the Limited Common Elements or the Units.

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

(E) For inspection, at reasonable times and upon reasonable notice to the Unit Owner, of a Unit and the Limited Common Elements to verify that the provisions of the Condominium Documents are being complied with by the Unit Owners, their guests, tenants, invitees and the other occupants of the Unit.

(F) For entry in case of an emergency.

3.9 Common Elements Easement in Favor of Unit Owners. The Common Elements and Limited Common Elements shall be subject to the following easements in favor of the Units benefited:

(A) For the installation, repair, maintenance, use, removal or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are a part of or serve any Unit and which pass across or through a portion of the Common Elements or Limited Common Elements.

(B) For the installation, repair, maintenance, use, removal or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Element or Limited Common Element adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any Common Element, or impair or structurally weaken any Common Element.

(C) For the maintenance of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grills and similar fixtures which serve only one Unit but which encroach into any part of the Common Elements, and for driving and

removing nails, screws, bolts and other attachment devices to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any Common Element or impair or structurally weaken any Common Element.

(D) For the performance of the Unit Owner's obligation to maintain, repair, replace and restore those portions of the Limited Common Elements that the Unit Owner is obligated to maintain pursuant to this Declaration.

3.10 Easement for Encroachments. Each Unit and the Common Elements shall be subject to an easement for encroachments, including but not limited to encroachments created by construction, alteration, restoration, settling, shifting or any reason other than the intentional encroachment onto the Common Elements or any Unit by a Unit Owner as originally designed or constructed, or as created by discrepancies between the Plat and the actual construction. If any portion of the Common Elements shall actually encroach upon the Unit, or if any Unit shall actually encroach upon another Unit, as the Common Elements and the Units are shown on the Plat, a valid easement for any of said encroachment and for the maintenance thereof, so long as they stand, shall and does exist. In the event any Units or Common Elements are repaired, altered, or reconstructed, the Owners of the Units agree that similar encroachments shall be permitted and that a valid easement for said encroachment and for the maintenance thereof shall exist.

ARTICLE 4

USE AND OCCUPANCY RESTRICTIONS

4.0 Single Family Residential Use. All Units and Limited Common Elements shall be used, improved and devoted exclusively to residential use by a Single Family. No gainful occupation, profession, business, trade or other nonresidential use shall be conducted on or in any Unit or Limited Common Elements, provided that a Unit Owner or other permitted resident may conduct limited business activities so long as (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (ii) the business activity conforms to all applicable zoning requirements or requirements for the Condominium; (iii) the business activity does not involve door-to-door solicitation of other Unit Owners or other residents of the Condominium; (iv) the business activity does not generate drive-up traffic or customer or client parking; and (v) the business activity is consistent with the residential character of the Condominium, does not constitute a nuisance or a hazardous or offensive use, and does not threaten the security or safety of other Unit Owners or other residents in the Condominium, as may be determined in the sole discretion of the Board of Directors.

The terms "business" and "trade" as used in this Section shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an on-going basis which involves the provisions of

goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required for such activity. The mere leasing of a Unit by the Unit Owner thereof in accordance with the provisions of Section 4.13 shall not be considered a trade or business within the meaning of this Section.

4.1 Animals. No animal, bird, livestock, reptile, poultry or fowl of any kind, other than a reasonable number of generally recognized house pets (as determined by the Board of Directors and set forth in the Rules) shall be maintained on or in any Unit and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. Notwithstanding the foregoing, no pet or other animal shall be allowed to make an unreasonable amount of noise, cause an odor, or to become a nuisance, as the foregoing may be determined by the Board of Directors. All dogs shall be kept on a leash not to exceed six (6) feet in length when outside a Unit, and all dogs shall be directly under the Unit Owner's control at all times. No Unit Owner or any tenant, lessee or guest of a Unit Owner shall permit its household pets to relieve themselves on any portion of the Common Elements or Limited Common Elements. It shall be the responsibility of the Unit Owner, tenant, lessee or guest to immediately remove any droppings from pets. No structure for the care, housing, confinement or training of any animal or pet shall be maintained on any portion of the Common Elements or on any Unit or Limited Common Element so as to be Visible From Neighboring Property. Upon the written request of any Unit Owner, the Board of Directors shall determine whether, for the purposes of this Section, a particular animal or bird is a generally recognized house pet, a nuisance, or whether the number of pets on any Unit or the Limited Common Elements allocated thereto is reasonable or any other matter hereunder. The right of Unit Owners and other occupants of Units to maintain a reasonable number of house pets on a Unit pursuant to this Section is expressly subject to the right of the Board of Directors to restrict such house pets to only certain portions of the Condominium and to prospectively restrict the size and number of dogs or other pets which may be maintained or kept on the Units.

4.2 Garbage. Unit Owners shall place trash and garbage in exterior covered containers of a type, size and style and located in areas designated from time to time by the Board of Directors. All trash and garbage shall be regularly removed from each Unit and any Limited Common Element and shall not be allowed to accumulate thereon. No incinerator shall be maintained on any Unit or Limited Common Element and no trash, garbage or debris shall be burned thereon by open fire or otherwise. The Board of Directors shall have the right to subscribe to a trash service for the use and benefit of the Association and all Unit Owners. The Board of Directors shall have the right to adopt and promulgate Rules regarding garbage, trash containers and collection and recycling.

4.3 Clothes Drying Facilities. No outside clotheslines or other facilities for drying or airing clothes shall be placed on any Unit or Limited Common Element or within the Condominium unless the same is not Visible From Neighboring Property.

4.4 Window Coverings. In no event shall the interior or exterior of any windows of any Unit or other structure upon the Condominium be covered with reflective material, such as foil, reflective screens or glass, mirrors, or similar items, or with paper, bed sheets or other temporary coverings. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Unit or any Limited Common Element shall be constructed, installed or maintained without the prior written consent of the Board of Directors. Any window treatments or coverings within the Unit installed by a Unit Owner other than Declarant shall conform to color specifications established by the Board. The exterior facing portion of any interior window covering shall be white or cream in color.

4.5 Signs. Except for (i) signs used by Declarant to advertise the Condominium and/or Units thereof for sale or lease during the construction and sales period, (ii) signs on the Common Elements as may be placed or approved by the Declarant during the Period of Declarant Control, or by the Board of Directors, thereafter, (iii) any signs as may be required by legal proceedings or by statute, and (iv) such signs as are approved by the Board of Directors, no emblems, logos, signs or billboards of whatever nature (including, but not limited to, "For Sale" or "For Rent" or "For Lease" signs) shall be permitted or displayed on the exterior of any Building or Unit, the interior of any Unit or any other portion of the Condominium without the prior written approval of the Board of Directors. The Board of Directors may permit signs identifying the Unit Owner, lessee or occupant of a Unit to be installed on the Common Elements, including the outside of the Building in which a Unit is located and the window of a Unit, provided that the location size, color, style and appearance of the sign is acceptable to the Board of Directors. The Board of Directors may adopt criteria regarding the location, size, color, style and appearance of signs that may be placed or installed in the Condominium, and the methods of affixation to the Buildings and Units. In addition to the approval of the Board of Directors required by this Section, any sign must also comply with the ordinances of the City of Scottsdale).

4.6 Garages Spaces. The interior of any Garage Space shall be maintained by the respective Unit Owner or occupants thereof in a neat and clean condition. Garage Spaces shall be used for parking Permitted Vehicles and for residential storage only, and shall not be used or converted for living, recreational or vocational activities. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

All garage doors shall be opened and closed utilizing an automated garage door opener of the type approved by the Board of Directors. Each Owner shall maintain his garage door and garage and door opener in an operable condition at all times. The garage door, garage door opener and related equipment shall be a Limited Common Element appurtenant to each Unit.

Each Owner with a Garage Space shall maintain his Garage Space such that Permitted Vehicle(s) (defined below) may be parked in the Garage Space. One (1) vehicle can be parked in the driveway space immediately in front of the garage door to Garage Spaces G 3001, G 3002, G 3003, G 3004, G 3005 and G 3006.

4.7 Vehicles and Parking/Vehicle Repair and Towing of Vehicles. Except for moving vans, delivery trucks, service vehicles or other similar large vehicles, trucks or equipment temporarily on the Condominium, the only types of vehicles permitted on the Condominium are private, non-commercial, passenger automobiles, sport utility vehicles, golf carts, motorcycles or pickup trucks not exceeding one (1) ton in carrying load or cargo capacity ("Permitted Vehicle(s)").

No other vehicle (including, but not limited to, mobile homes, motor homes, boats, recreational vehicles, all terrain vehicles, trailers, trucks, machinery, equipment, campers, permanent tents, or similar vehicles or equipment, commercial vehicles, or vehicles exceeding one (1) ton in carrying load or cargo capacity or similar vehicles or equipment) shall be kept, placed or maintained upon the Condominium or any roadway adjacent thereto or in any Visitor Parking Spaces, except: (i) within a garage; or (ii) in such areas and subject to such Rules as the Board of Directors may designate and adopt in its sole discretion (and the Board of Directors in its sole discretion may prohibit such other vehicles and equipment completely).

No vehicle (including, but not limited to, those enumerated in the preceding sentences) shall be constructed, reconstructed or repaired on the Condominium or any roadway or driveway or Parking Space therein or in a Garage Space.

No Permitted Vehicle shall make an unreasonable amount of noise or emit other than an ordinary amount of fumes.

Any damage to any roadway or driveway or Parking Space or Garage Space or other Improvement within the Condominium due to a Unit Owner's, or his family's, guest's, tenant's, lessee's, invitee's or other occupant's vehicle shall be assessed against such Unit Owner as a Special Assessment.

No Unit Owner shall have more than one (1) Restricted Parking Space and one (1) Garage Space or two (2) Restricted Parking Spaces specifically assigned or attached to his Unit.

Guests and other visitors (but not Unit Owners) may park in Visitor Parking Spaces only on a temporary basis (not exceeding seventy-two (72) consecutive hours or seven (7) calendar days in any month). No motor vehicles of any kind which are not in operating condition shall be parked in any unenclosed parking areas or Parking Spaces on the Condominium.

The Association may establish speed limits, speed bumps, directional limitations, and such other traffic rules as it may determine to be in the best interest of the Condominium.

The Board shall have the right to have any vehicle or other item of equipment parked, maintained, kept, operated, reconstructed or repaired in violation of this Section towed away at the sole expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle is owned by a Unit Owner, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association

may enforce collection of such amounts in the same manner provided in this Declaration for the collection of Assessments.

The provisions of this Section shall not apply to vehicles of Declarant or its employees, agents, affiliates, contractors or subcontractors during the course of construction or warranty repair activities upon or about the Condominium, or to the Association for vehicles required for the maintenance, construction or operation of the Common Elements.

4.8 Improvements and Alterations. No addition, alteration or improvement in or on any Unit or Limited Common Element that would be Visible from Neighboring Property shall be made without the prior written approval of the Board of Directors, which approval shall only be granted if the Board of Directors affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing, in harmony with the surrounding Improvements and consistent with the Condominium Documents. The design, size, color, materials, location and elevation of any Improvement which is Visible From Neighboring Property, and all changes thereto, must be approved by the Board of Directors prior to installation. All Improvements constructed or installed by or for Declarant and all changes thereto done by or for Declarant shall be conclusively deemed approved by the Board of Directors.

Except as may otherwise be provided herein, any Unit Owner may make nonstructural additions, alterations and improvements within the interior living space of his Unit without the prior written approval of the Board of Directors so long as such additions, alterations or improvements are made in accordance with any applicable governmental regulations. Notwithstanding the foregoing, any such Unit Owner shall, to the extent required by Arizona law, be responsible for any damage to other Units or to the Common Elements which results from any such alterations, additions or improvements.

No Person shall make any additions, alterations or improvements to a Unit or a Limited Common Element of a structural nature, or to a Common Element unless prior to the commencement of each addition, alteration or improvement the Unit Owner receives the prior written approval of the Board of Directors. Before considering whether or not to grant any approval, the Board of Directors may require that the Unit Owner retain an architect or engineer, licensed in Arizona, to certify that such addition, alteration or improvement will not impair the structural integrity of any other part of the Condominium. Notwithstanding any approval given by the Board of Directors or any certification by any architect or engineer, the Unit Owner shall to the extent required by Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations or improvements.

Except for lines, wires and devices existing on the Condominium on the date the first Unit is conveyed to a Purchaser and maintenance and replacement of the same, no lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon the Condominium unless they are contained in conduits or cables installed and maintained underground or concealed in, under or on Improvements or other structures approved by the Board of Directors. No provision hereof shall be deemed to forbid the erection of temporary

power, telephone or other structures incident to the construction of Improvements by Declarant or structures approved by the Board of Directors.

No Unit Owner or tenant or other occupant shall interfere with the drainage established for the Condominium by Declarant.

4.9 Outside Limitations. No balcony, patio or deck covers, wiring, or installation of air conditioning, water softeners or other machines shall be installed on the exterior of the Buildings or be allowed to protrude through the walls or roofs of the Buildings (with the exception of those items installed during the original construction of the Condominium) unless prior written approval of the Board of Directors is secured. Outdoor patio and lounge furniture, umbrellas, plants and barbecue equipment may be maintained pursuant to such Rules as the Board of Directors may designate and adopt in its sole discretion. Notwithstanding the foregoing, no Improvement may be installed, constructed or planted in such a manner in any Unit such that the Improvement extends or grows beyond the boundaries of the air space volume comprising the Unit. The Association may trim, prune or remove any landscaping Improvement which grows beyond the boundaries of the Unit and the cost of such trimming, pruning or removal shall be a Special Assessment chargeable to the Owner of the Unit wherein such landscaping Improvement is located.

4.10 Heating, Ventilating and Air Conditioning Units. No heating, ventilating, air conditioning or evaporative cooling units or equipment shall be placed, constructed or maintained upon a Unit, a Limited Common Element or any other part of the Condominium, including, but not limited to, upon the roof or exterior walls of any Improvement or other structure on any part of the Condominium unless: (i) where such unit or equipment is installed upon the roof of any structure upon the Condominium, such unit or equipment is fully screened from view from any adjacent Unit(s) by a parapet wall which conforms architecturally with such structure so as not to be Visible From Neighboring Property; or (ii) in all other cases, such unit or equipment is attractively screened or concealed and is not Visible From Neighboring Property, which means of screening or concealment shall (in either case (i) or (ii)) be subject to the regulations and approval of the Board of Directors.

4.11 Solar and Antennas, Poles and Towers and Collection Devices. No Solar collection or energy device or equipment, including, without limitation, solar water heaters, solar electrical generating units or solar ovens or cooking devices, may be placed on or located on, upon or about a Unit or the roof or walls thereof or on, upon or about the Limited Common Elements if the same is or shall be Visible From Neighboring Property.

No antenna, aerial, satellite dish or other device for the transmission or reception of television or radio (including amateur or ham radio) signals of any kind or any other form of electromagnetic radiation (collectively referred to herein as "antennas"), nor any telescope or other like optical device, will be allowed to be placed or located on, upon or about a Unit or the roof or walls thereof, or on, upon or about the Limited Common Elements, if the same is or shall be Visible From Neighboring Property, without the advance written consent of the Board of Directors, except:

(A) Those antennas whose installation or use is protected under federal law or regulations (generally, certain antennas under one meter in diameter), provided that an application for such an antenna must be submitted to the Board of Directors and such application will be approved only if:

(1) the antenna is designed to assure the minimal visual intrusion possible (i.e., is located in a manner that minimizes visibility from the street, other Units and Common Elements used for recreational purposes); and

(2) the antenna complies to the maximum extent feasible with any Rules related thereto within the confines of applicable federal regulations (i.e., without precluding reception of quality signal, or unreasonably increasing the cost of the antenna).

Upon the written request of the Unit Owner when submitting the application, the Board of Directors shall consider such an application on an expedited basis and shall strive to render a decision within seven (7) days, but in no event later than fourteen (14) days, from the date the applicant submits a complete application.

or

(B) Dishes eighteen inches (18") in diameter or smaller in locations approved by the Board of Directors appropriately screened.

The restrictions in this Section shall be subject to any limitations imposed by law.

4.12 Nuisances, Mineral Exploration, Diseases, Insects and Rodents.

(A) No nuisance shall be permitted to exist or operate upon the Condominium, and no activity shall be conducted upon the Condominium which is offensive or detrimental to any portion of the Condominium or any Unit Owner or other occupant of the Condominium. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any portion of the Condominium for any unreasonable time, and no odors shall be permitted to arise therefrom, so as to render the Condominium or any portion thereof unsanitary, unsightly, offensive or detrimental to any other portion of the Condominium in the vicinity thereof or to any Unit Owners or other occupants of a Unit. No exterior speakers, horns, whistles, bells or other sound devices, except security or other emergency devices used exclusively for security or emergency purposes, shall be located, used or placed on the Condominium. No loud, noxious or offensive activity shall be carried on or permitted on any part of the Unit, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to Persons or property in the vicinity of such Unit or which shall interfere with the quiet enjoyment of each of the Unit Owners and other occupants of a Unit. The Board of Directors shall have the right to

determine, in its sole discretion, whether the provisions of this Section have been violated. Any decision rendered by the Board of Directors shall be conclusive and shall be enforceable in the same manner as other restrictions in this Declaration.

(B) No portion of the Condominium shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

(C) No Unit Owner shall permit any thing or condition to exist upon his Unit or the Condominium which could induce, breed or harbor infectious plant diseases, noxious insects or rodents.

4.13 Prohibited Uses. No use which is offensive by reason of odor, flames, dust, smoke, noise, glare, heat, sound, vibration, radiation or pollution, or which constitutes any other form of nuisance or unreasonable source of annoyance, or which is hazardous by reason of risk of fire or explosion, which is injurious to the reputation of any Unit Owner or which is otherwise immoral, improper or offensive, shall be permitted on any part of the Condominium. No use which is in violation of the laws (after taking into account the application of any validly granted or adopted variance, exception or special use ordinance or regulation) of the United States, the State of Arizona, or any other governmental entity having jurisdiction over the Condominium shall be conducted on any Unit or within the Condominium. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Condominium shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

4.14 Leasing; Obligations of Tenants and Other Occupants. All leases of Units must be in writing, and all such leases and all tenants and lessees under such leases and all other occupants of Units shall be subject to the terms and conditions of the Condominium Documents. Each Unit Owner shall cause his tenants, lessees or other occupants to comply with the Condominium Documents and, to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such tenants, lessees or other occupants, notwithstanding the fact that such tenants, lessees or other occupants are also fully liable for any violation of each and all of the Condominium Documents. All Leases shall provide that any failure by the tenant, lessee or other occupant thereunder to comply with the terms of the Condominium Documents shall be a default under the Lease. Failure by a Unit Owner to take legal action, including the institution of a forcible entry and detainer proceeding against his tenant, lessee or other occupant who is in violation of this Declaration and/or other Condominium Documents within ten (10) days after receipt of written demand to do so from the Board or the property management company retained by the Association, shall entitle the Association, acting by and through the property management company retained by the Association and/or the Board, to take any and all such actions, including the institution of proceedings and forcible entry and detainer on behalf of such Unit Owner against his tenant, lessee or other occupant. Any expenses incurred by the Association or the property management company retained by the Association, including reasonable attorneys' fees and costs of suit, shall be repaid to it by such Unit Owner. Failure of such Unit Owner to make such repayment within

ten (10) days after receipt of a written demand thereof shall entitle the Board to levy a special Assessment against such Unit Owner and his Unit for all such expenses incurred by the Association or the property management company retained by the Association. In the event such special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for collection thereof. No Unit Owner may lease less than his entire Unit. No Unit may be leased for any lesser period of time than thirty (30) days. The provisions of this Section shall not apply to Declarant's use of Units owned by or leased to Declarant for model home, design center, marketing or other purposes. All leases shall contain notice to the tenant or lessee that the terms of the lease are subject in all respects to the provisions of the Condominium Documents, and any failure by the lessee, tenant or other occupant to comply with the terms of the Condominium Documents is a default under the lease. Upon leasing his Unit a Unit Owner shall promptly notify, in writing, (i) the Association or the property management company retained by the Association of the commencement date and termination date of the lease and the names of each tenant, lessee or other person who will be occupying the Unit during the term of the lease; and (2) provide a copy of the lease to the property management company retained by the Association or, if none, to the Association. **Notwithstanding anything in this Declaration to the contrary, no Unit Owner who purchased his Unit from Declarant and whose Unit's deed contains a lease restriction shall lease all or any portion of his Unit for a period of twelve (12) calendar months following the Conveyance Date.**

4.15 Variances. The Board may authorize a variance from compliance with any of the provisions of this Declaration, including this Article 4, from time to time, when circumstances such as hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and must be signed by a majority of the Board. If such variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the specific matter for which the variance is granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, and only for so long as the special circumstances warranting the variance exist, nor shall it affect in any way the Unit Owner's obligation to comply with all governmental laws and regulations affecting the use of his Unit. The Board shall have the right to condition the granting of a variance as it may determine in the Board's sole discretion, including, without limitation, making a variance temporary and/or renewable on a periodic basis or permanent. Moreover, because of the unique facts and circumstances surrounding each variance request, the granting of a variance in one instance or under certain terms and conditions does not mandate the granting of a variance under similar or related circumstances, terms or conditions if the experiences of the Association and the Condominium as a whole or the differences in circumstances (however slight) of a variance request from a previously approved variance lead the Board, in good faith, to disapprove a variance request in such instance. In addition, the Condominium shall continue at all times to be subject to applicable zoning laws and ordinances; provided, however, that where the provisions of this Declaration are more restrictive than such laws or ordinances, the provisions of this Declaration shall control.

4.16 Utility Service. Except for lines, wires and devices existing on the Condominium on the date the first Unit is conveyed to a purchaser and maintenance and replacement of the

same, no lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon the Condominium unless they are contained in conduits or cables installed and maintained underground or concealed within, under or on the Building or other structures approved by the Board. All utilities or services serving the Condominium as a whole and not separately metered to the Units or submetered and billed to Unit Owners shall be paid by the Association as a Common Expense.

4.17 Temporary Occupancy. No trailer, tent, shack, garage, barn or other structure, and no temporary Improvement of any kind shall be used at any time for a residence either temporarily or permanently within the Condominium.

4.18 Machinery and Equipment. No Unit Owner may place, operate or maintain machinery or equipment of any kind upon the Condominium other than usual and customary machinery and equipment used in connection with the Owner's permitted uses (or Board-approved remodeling) of his Unit and Limited Common Elements. This Section 4.18 shall not apply to any such machinery or equipment which Declarant or the Association may require for the construction, improvement, operation and maintenance of the Common Elements.

4.19 Spas, Hot Tubs, Jacuzzis, Etc. No Unit Owner may place, operate or maintain any spa, hot tub, Jacuzzi or similar equipment upon any portion of the Common Elements the Limited Common Elements of the Condominium, including any patio, balcony or garage.

4.20 Restriction on Unit ReSales. during the six (6) month period following the Conveyance Date, a Unit Owner who purchases his Unit from Declarant shall not resell or enter into an agreement to resell at a later date or otherwise convey the Unit to any Person without first giving written notice (the "Notice") to Declarant setting forth the proposed purchase price to be paid by the third party and offering to sell the Unit to Declarant ("Offer") for the Base Purchase Price paid by the Unit Owner upon the Conveyance Date. Declarant shall have ten (10) business days after receipt of the Notice to accept the Offer. Failure by Declarant to give written notice of acceptance within the aforesaid ten (10) business day period shall constitute rejection of the Offer. If Declarant accepts the Offer, the close of escrow for the repurchase shall occur within sixty (60) days after the date of acceptance. Upon the close of escrow on the repurchase, the Unit Owner shall pay and discharge all liens and encumbrances on the Unit created by the Unit Owner, the Unit Owner shall convey the Unit to Declarant by general warranty deed, Declarant shall pay the repurchase price, closing expenses and prorations shall be allocated in accordance with Paragraph 10 of the Purchase Contract between Declarant as "Seller" and the Unit Owner as "Buyer", with the Declarant as "Buyer" and the Unit Owner as the "Seller" in the repurchase transaction, and exclusive possession of the Unit shall be delivered to Declarant. In the event the Offer is rejected (or deemed rejected) upon the closing of the escrow established to consummate the sale of the Unit, the Unit Owner shall pay Declarant a fee of \$19,000.00 through escrow. The restriction on Unit resales set forth in this Section 4.20 shall stand terminated upon the date Declarant shall have sold and closed on the sale of all 348 Units to Purchasers.

4.21 Exemption of Declarant. Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by Declarant (or its designated agents and contractors), during the period of development and construction on the Condominium, of any model homes and sales offices and parking incidental thereto, and landscaping or signs deemed necessary or convenient by Declarant, in its sole discretion, to the development or sale of property within the Condominium.

4.22 Weight and Sound Restriction. No Unit Owner (other than Declarant) shall install any hard and/or heavy surface floor coverings on the second floor, including, without limitation, tile, marble, wood, and the like, without the prior written approval of the Board of Directors. Any flooring to be installed by a Unit Owner (other than the Declarant) must use a sound control underlayment system. Installation of such sound control underlayment system shall include provisions for a perimeter insulation material which will ensure that impact noises are not transmitted into the Unit below the floor either directly through the floor or by going around the floor and through the surrounding walls.

ARTICLE 5

MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.0 Duties of the Association. Except as otherwise provided in this Declaration, the Association shall maintain, repair and make necessary improvements to all Common Elements, including, without limitation, any and all Improvements other than individual Units, but excepting any Limited Common Elements that the Unit Owners are obligated to maintain, repair and replace pursuant to this Declaration. Common Elements that the Association shall maintain include, but are not limited to, all Recreational Facilities, landscaping, Garage Buildings, drainage facilities, streets, parking areas and walks. If it so elects (without obligation to do so), or is required to do so by any governmental authority, the Association shall maintain landscaping located on public rights of way adjacent to, or within, the Condominium. The cost of all repairs, maintenance and improvements for which the Association is responsible shall be a Common Expense and shall be paid for by the Association.

5.1 Duties of Unit Owners. Each Unit Owner shall maintain, repair, replace and restore, at his own expense: (i) all portions of his Unit subject to the Condominium Documents; and (ii) the Limited Common Elements allocated to his Unit pursuant to this Declaration. Without limiting the generality of the foregoing, each Unit Owner shall, at his own expense, maintain, repair, replace and restore, all doors (including garage doors and garage door openers), window glass, and any heating, cooling and air conditioning systems and equipment exclusively serving his Unit, and all electrical and plumbing fixtures and appliances exclusively serving his Unit, including, but not limited to, dishwashers, laundry equipment, ranges, ovens, water heaters, automatic garage door opener with remote control device and other built-in appliances. Each Owner shall clean, maintain, repair, replace and restore all interior finishes including, without limitation, floor coverings and wall coverings.

5.2 Repair or Restoration Necessitated by Owner. Each Unit Owner shall be liable to the Association, to the extent permitted by Arizona law, for any damage to the Common

Elements or the Improvements, landscaping or equipment thereon, which results from the negligence or willful misconduct or omission of the Unit Owner or his family members, guests, invitees, tenants, lessees or other occupants. The cost to the Association of any such repair, maintenance or replacement required by such act or omission of a Unit Owner shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments.

5.3 Unit Owner's Failure to Maintain. If a Unit Owner fails to discharge the duties imposed upon such Unit Owner by this Article within ten (10) days following written demand by the Association that he do so, the Association shall have the right but not the obligation, to perform the required maintenance, repair or replacement. The cost of any such maintenance, repair or replacement, together with interest at twelve percent (12%) per annum thereon and an administrative fee at ten percent (10%) of the amount incurred by the Association, shall be assessed against the non-performing Unit Owner, and said assessment shall be due and collectable in the same manner as provided for the collection of Assessments.

5.4 Standard of Care; Disclaimer of Liability. The Association shall use a reasonably high standard of care in providing for the repair, management and maintenance of the Common Elements so that the Condominium will reflect a high degree of pride of ownership. The Board of Directors, however, shall be the sole judge as to the appropriate level of maintenance of all Common Elements by the Association. Notwithstanding any duty the Association may have to maintain and repair the Common Elements, the Association and Declarant shall not be liable for any injury or damage caused by a latent condition or by any Unit Owner, or other Person. Neither the Association nor Declarant shall be liable to any Person for any claim, injury or damage arising from the use of the Common Elements and the same shall be used at the risk of the user. Declarant has no duty or obligation to maintain, operate, manage or repair the Common Elements.

5.5 Party Walls.

(A) Each wall separating Units shall constitute a party wall and, to the extent not inconsistent with this Section, the general rules of law regarding party walls shall apply.

(B) The Owners of contiguous Units who share a party wall shall both equally have the right to use such wall provided that such use by one Unit Owner does not interfere with the use and enjoyment of same by the other Unit Owner.

(C) Except as provided in Subsection (D) below the Owners of contiguous Units who share a boundary wall shall each pay one-half ($\frac{1}{2}$) of the cost of any maintenance, repair or replacement of the boundary wall. Either of such Unit Owners may perform any necessary repair, maintenance, or replacement of the boundary wall and in such event, such Owner shall be entitled to reimbursement from the other Owner for one-half ($\frac{1}{2}$) of such cost.

(D) In the event that any party wall is damaged or destroyed through the negligence or willful act of a Unit Owner, his agents, tenants, lessees, licensees, guests or family, it shall be the obligation of such Unit Owner to rebuild and repair the party wall without cost to the other Unit Owner or Unit Owners who share the party wall.

(E) The right of any Unit Owner to contribution from any other Unit Owner under this Section shall be appurtenant to the land and shall pass to such Unit Owner's successors in title.

(F) In addition to meeting the other requirements of this Declaration and of any other building code or similar regulations or ordinances, any Unit Owner proposing to modify, make additions to or rebuild a party wall shall first obtain the written consent of the adjoining Unit Owners and the Declarant during the Period of Declarant Control, and thereafter the Board of Directors.

(G) In the event any party wall encroaches upon a Unit, a valid easement for such encroachment and for the maintenance of the party wall shall and does exist in favor of the Owners of the Units which share such party wall.

ARTICLE 6

THE ASSOCIATION; RIGHTS AND DUTIES; MEMBERSHIP

6.0 Existence, Rights, Powers and Duties of the Association. No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as a nonprofit Arizona corporation. The Association shall be the entity through which the Unit Owners shall act. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Condominium Documents 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 and in the Condominium Act. The Association shall have the right to finance capital Improvements in the Condominium by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Unit Owners representing more than fifty percent (50%) of the votes in the Association and by Declarant during the Period of Declarant Control. Unless the Condominium Documents or the Condominium Act specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board of Directors. The Association has the specific duty to make available to Declarant, Eligible Mortgage Holders, Unit Owners, and Eligible Insurers or Guarantors of any First Mortgage during normal business hours, current copies of the Condominium Documents and other books, records and financial statements of the Association as may be requested from time to time by such parties. Such requests shall be in writing, and the Association shall have the right to charge for copying and administrative expense.

(A) The Association, as the agent and representative of the Unit Owners, shall have the right, but not the obligation, to enforce the provisions of this Declaration. Further, Declarant or any other Unit Owner, so long as Declarant or such other Unit Owner owns property within the Project, shall have the right and authority, but not the obligation, to enforce the provisions of this Declaration.

(B) Subject to the restrictions and limitations contained herein, or in the Articles, the Bylaws, and the laws of the State of Arizona, the Association may enter into contracts or other transactions with other parties, including Declarant or its affiliated companies. Such contracts or other transactions shall not be void or voidable because one or more directors or officers of the Association are employed by, have a financial interest in or are otherwise affiliated with such other parties, including Declarant or its affiliates (even if such officer(s) or director(s) is present and/or votes at the meeting of the Board of Directors or committee which authorizes the contract or transaction), if (i) the fact of such interest has been previously disclosed or made known to the other members of the Board of Directors or the committee acting upon such contract or transaction, and (ii) the transaction or contract is fair and reasonable. Notwithstanding the foregoing, any management contract entered into by the Association must be terminable, without penalty, by the Association for cause at any time and without cause upon reasonable notice.

(C) Upon adoption of a resolution by the Board of Directors stating that the current use of a specified part of the Common Elements is no longer in the best interests of the Unit Owners, and the approval of such resolution by not less than two-thirds (2/3) of the votes of all Members entitled to vote and voting in person or by proxy at a meeting duly called for such purpose, the Board of Directors shall have the power and right to change the use thereof (and in connection therewith to take whatever actions are required to accommodate the new use), provided such new use; (i) also shall be for the common benefit of the Unit Owners; and (ii) shall be consistent with any recorded deed and zoning regulations.

(D) The Association shall not make any dedication or other transfer of the Common Elements, or mortgage or otherwise encumber Common Elements except upon: (i) the adoption of a resolution by the Board of Directors stating that the transaction would be in the best interests of the Unit Owners; (ii) the approval of such resolution by not less than two-thirds (2/3) of the votes of all Members; and (iii) approval of the proposed action by any Agency, as applicable and if required under this Declaration. If ingress or egress to any Unit is through the Common Elements to be conveyed or encumbered, such conveyance or encumbrance shall be subject to an easement for ingress and egress benefiting such Unit.

6.1 Directors and Officers. The affairs of the Association shall be conducted by and through the Board of Directors and such officers and committees as the Board may elect and appoint, all in accordance with the Articles and the Bylaws. During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board of

Directors and the officers of the Association, which appointees do not have to be Unit Owners. Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Board of Directors, which must consist of at least three (3) members, all of whom must be Unit Owners. The Board of Directors elected by the Unit Owners shall then elect the officers of the Association. Declarant may voluntarily surrender its right to appoint and remove the members of the Board of Directors and the officers of the Association before termination of the Period of Declarant Control, and in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

6.2 Membership; Voting. Every Unit Owner, including Declarant, automatically shall be a Member of the Association for so long as such ownership continues. Each Member shall have one vote for each Unit owned by such Member. Each Unit Owner's membership in the Association shall be appurtenant to, and may not be separated from ownership of, the Unit to which the membership is attributable. In the event any Unit is owned by two or more Persons, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the membership as to such Unit shall be joint, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership; provided, however, that if any one of such Persons casts a vote or votes representing a Unit without objection from any other Person sharing ownership of such Unit, that Person will thereafter be conclusively presumed to be acting with the authority and consent of all other Persons sharing ownership of such Unit unless and until objection thereto is made to the Board, in writing. In the event a Unit is owned by a corporation, partnership, limited liability company or other entity or association, the corporation, partnership, limited liability company, other entity or association shall be a Member and shall designate in writing to the Association at the time of its acquisition of the Unit, the name and title of the person who shall have the power to vote the membership of the corporation, partnership or association in the Association. The person so designated shall be the only person who shall be entitled to cast the vote for the Units owned by such corporation, partnership or association. If the corporation, partnership, limited liability company, other entity or association fails to designate the person who shall have the right to vote the membership of the corporation, partnership, limited liability company, other entity or association, then such corporation, partnership, limited liability company or association shall lose its right to vote and it shall not be considered as a Member for the purpose of determining the requirement for a quorum or any other purpose requiring the approval of a person entitled to cast the vote for the Unit owned by such corporation, partnership, limited liability company, other entity or association or no change in the ownership of a Unit shall be effective for voting purposes until the Board receives satisfactory evidence thereof. Fractional votes shall not be allowed.

6.3 Rules. The Board of Directors, from time to time and subject to the provisions of this Declaration and the Condominium Act, may adopt, amend, and repeal Rules. The Rules may, among other things, restrict and govern the use of any area by any Unit Owner, by the family of such Unit Owner, or by any invitees, licensee, tenant, lessee or other occupant of such Unit Owner; provided, however, that the Rules may not unreasonably discriminate among Unit

Owners and shall not be inconsistent with the Condominium Act, applicable federal and state fair housing laws, this Declaration, the Articles or the Bylaws. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered by the Association to each Unit Owner; provided, however, that failure to do so shall not invalidate the existence of such Rules. A copy of the Rules may be recorded by the Declarant or the Board of Directors.

6.4 Optional Architectural Committee. The Board of Directors may, but shall not be obligated to, establish an Architectural Committee consisting of one or more members appointed by the Board of Directors to regulate the external design, appearance, use and maintenance of the Condominium and to perform such other functions and duties as are imposed upon it by the Condominium Documents or by the Board of Directors. If so established, the Architectural Committee may adopt procedural rules and regulations for its performance of such duties, including procedures for the preparation, submission and consideration of the application for any approvals required by this Declaration, including a reasonable fee and the imposition of its costs to properly consider applications. The Architectural Committee may promulgate design guidelines to be used by the Architectural Committee in rendering its decisions. The Architectural Committee may grant variances from the standards set forth in this Declaration or its design guidelines if the Architectural Committee determines the matter permitted under the requested variance will not have a substantially adverse affect on other Unit Owners and is consistent with the high quality of life intended for the Condominium. In the event an Architectural Committee is formed, Declarant is forever exempt from the provisions of this Section and need not seek nor obtain Architectural Committee approval of any Improvements constructed on the Condominium by Declarant.

6.5 Personal Liability. No Board of Directors member, officer, or committee member, employee or representative of the Association, nor the Association, shall be personally liable to any Unit Owner, or to any other Person, including the Association, for any damages, losses, costs, fees (including reasonable attorneys' fees), or any prejudice suffered or claimed on account of any of the acts, omissions, errors or negligence, unless such person has failed to act in good faith or has engaged in willful or intentional misconduct.

6.6 Property Rights. Every Unit Owner shall have a non-exclusive right and easement of enjoyment in, to and over the Common Elements, subject to this Declaration and to reasonable Rules adopted by the Board of Directors pursuant hereto, and such right shall be unrestricted as to ingress and egress to such Unit Owner's Unit and shall be perpetual so that it passes with the Unit estate as transfer of the ownership of the Unit occurs. Any Unit Owner may assign that right of enjoyment to (and share the same with) the members of his or her household and assign the same to and share the same with his, her or its tenants and invitees subject to the provisions of this Declaration and to reasonable regulation by the Board of Directors. A Unit Owner who leases his, her or its Unit shall be deemed to have delegated such Unit Owner's rights and easements under this Section to the tenant or lessee of such Unit for the term of such lease.

6.7 Resale of Units. Within ten (10) days of receipt of a written notice of a pending sale of a Unit that contains the name and address of the purchaser, the Association shall provide the information required by §33-1260 of the Condominium Act to such purchaser in the manner provided therein, and may charge a fee for this service as permitted therein.

ARTICLE 7

ASSESSMENTS

7.0 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Unit by acceptance of a deed therefor or otherwise becoming a Unit Owner, is deemed to covenant and agree to pay to the Association: (a) Common Expense Assessments, (b) Special Assessments, (c) User Fee Assessments, and the amounts payable to the Reserve Contribution pursuant to Section 7.11. The Assessments, together with interest, collection costs, reasonable attorneys' fees and all other amounts payable to the Association under the Condominium Documents, shall be a lien on the Unit against which each such Assessment is made, and shall also be the personal obligation of each person who was a Unit Owner of such Unit at the time when the Assessment was levied. The personal obligation for delinquent Assessments or other obligations shall not pass to any unrelated bona fide third party who succeeds to the title of the Unit Owner unless expressly assumed by such successor.

7.1 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Unit Owners, for the improvement and maintenance of the Common Elements, and for all purposes set forth in the Condominium Documents, including, but not limited to, insurance premiums, expenses for maintenance repairs and replacements of Common Elements and reserves pursuant to Section 7.15.

7.2 Preparation of Budget.

(A) At least thirty (30) days before the beginning of each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board of Directors believes will be required during the ensuing fiscal year to pay all Common Expenses, including, but not limited to: (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units or Limited Common Elements, if any, which the Association has the responsibility of maintaining, repairing and replacing; (ii) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (iii) the amount required to render to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; and (iv) such amounts as the Board of Directors may deem necessary to provide general operating reserves and reserves for contingencies and

replacements of, among other things, Improvements located on the Common Elements. The budget shall separately reflect any Common Expenses to be assessed against less than all of the Units as provided for hereinafter.

(B) Within thirty (30) days after the adoption of a budget (except for the initial Budget adopted by the Board of Directors), the Board of Directors shall send to each Unit Owner a summary of the budget and a statement of the amount of the Common Expense Assessment assessed against the Unit of the Unit Owner in accordance with this Section.

(C) The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year and to make any assessment shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as provided in this Article and each Unit Owner shall continue to pay the Common Expense Assessment against his Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been established by the Board of Directors.

(D) The Board of Directors is expressly authorized to adopt and amend budgets for the Association, and no ratification of any budget by the Unit Owners shall be required.

7.3 Common Expense Assessment. In order to provide funds to enable the Association to meet its obligations and create and maintain general operating reserves and reserves for contingencies and replacements of, among other things, Improvements located on the Common Elements there is hereby created a right of assessment referred to in this Declaration as the "**Common Expense Assessment**" exercisable on behalf of the Association by the Board of Directors. The Common Expense Assessment shall include reasonable amounts as determined by the Board of Directors, collected as reserves for future periodic maintenance, repair or replacement of all or a portion of the Common Elements, as provided in Section 7.15 of this Declaration .

(A) For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors shall be assessed against each Unit in the proportion to the Unit's Common Expense Liability, as set forth in Section 2.1.4 of this Declaration. The amount of the Common Expense Assessment assessed pursuant to this Section shall be in the sole discretion of the Board of Directors except that it shall not exceed the maximum Common Expense Assessment for such fiscal year as computed below.

(B) If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date

designated by the Board of Directors, except that the increase in the Common Expense Assessment assessed pursuant to this Section shall not exceed the maximum Common Expense Assessment for such fiscal year as computed below.

(C) The maximum Common Expense Assessment for each fiscal year of the Association shall be as follows:

(1) Until January 1 of the year immediately following the conveyance of the first Unit to a Purchaser, the maximum annual Common Expense Assessment shall be the Base Amount.

(2) From and after January 1 of the year immediately following the conveyance of the first Unit to a Purchaser, except as provided below, unless a greater increase is approved by a vote of two-thirds (2/3) of the votes of Members represented in person or by proxy at a meeting of Members called for such purpose, the maximum Common Expense Assessment for any fiscal year shall be equal to the maximum Common Expense Assessment for the immediately preceding fiscal year increased at a rate equal to the greater of: (a) the percentage increase for the applicable fiscal year over the immediately preceding fiscal year in the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, Sub-group "All Items" entitled "All Urban Consumers", "United States City Average" (1982-1984 = 100) (or a successor index approved by the U.S. government); or (b) twenty percent (20%).

(3) Notwithstanding the foregoing, the Board may, without the approval of the Members, increase the maximum Common Expense Assessment for any fiscal year by an amount sufficient to permit the Board to meet any increase over the preceding fiscal year in: (a) premiums for any insurance coverage required by this Declaration to be maintained by the Association; and (b) charges for utility services necessary to the Association's performance of its obligations under this Declaration, notwithstanding the fact that the resulting increase in such maximum Common Expense Assessment is greater than otherwise permitted under this Section. Increases in Common Expense Assessments shall in all events be subject to any limitations imposed by law.

(4) The maximum Common Expense Assessment shall apply only to the amount of the Common Expense Assessment assessed against all Units, and has no applicability to Common Expenses assessed against only specific Units as provided for hereinafter.

(D) All Units shall be subject to the Common Expense Assessments upon the conveyance of the first Unit to a Purchaser. The first Common Expense Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors may require that the Common Expense Assessments or Special Assessments be paid in installments. The Common Expense Assessment shall

be collected on a monthly basis or such other basis and in such amounts as may be established by the Board.

(E) Except as otherwise expressly provided for in this Declaration, all Common Expenses, including, but not limited to, Common Expenses associated with the maintenance, repair and replacement of a Limited Common Element, shall be assessed against all of the Units in accordance with subsection 7.3(A) of this Declaration.

(F) If any Common Expense is caused by the negligence, omission or willful misconduct of any Unit Owner, the Association shall assess that Common Expense exclusively against his Unit together with interest at twelve percent (12%) per annum and an administrative fee at ten percent (10%) of the amount incurred by the Association.

(G) Assessments to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered, in proportion to their Common Expense Liability.

(H) In the event the Declarant or the Association elects to provide, either directly or indirectly, special services, including but not limited to water, power, telephone and cable television service to either the Owners of all Units or to those Owners who individually subscribe to such service, the Association may assess the Owners of each Unit using such services a fee to be determined by the Board of Directors of the Association which fee may be a function of the type and volume of such service.

(I) Notwithstanding anything in this Declaration to the contrary, Declarant shall not be required to pay any Common Expense Assessment for the Units which have not been sold by Declarant to Purchasers. If, and only if, Declarant elects to pay Common Expense Assessments on the Units owned by Declarant prior to the sale of such Units to Purchasers, the Common Expense Assessment for any Unit owned by the Declarant shall be an amount equal to twenty-five percent (25%) of the Common Expense Assessment for Units which have been sold to Purchasers. So long as Declarant elects either to pay no Common Expense Assessments or to pay the reduced Common Expense Assessments provided for in this Subsection, Declarant shall be obligated to pay to the Association any deficiency in the monies of the Association due to the Declarant having paid a reduced Common Expense Assessment and necessary for the Association to be able to timely all Common Expenses.

7.4 Special Assessments. In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, as a Special Assessment, an assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any Special Assessment (other than a Special Assessment levied pursuant to Section 8.5 of this Declaration) shall have first been approved by Unit Owners representing two-thirds (2/3) of the votes in the Association and who are voting in

person or by proxy at a meeting duly called for such propose and approved by Declarant, during the Period of Declarant Control. Special Assessments shall be assessed against each Unit in the proportion to the Unit's Common Expense Liability, as set forth in Section 2.1.4 of this Declaration. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Unit Owners.

7.5 Notice and Quorum for Any Action Authorized Under Article 7. Written notice of any meeting called for the purpose of obtaining the consent of the Members for any action for which the consent of Members is required under Article 7 shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes 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 one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

7.6 Effect of Nonpayment of Assessments, Remedies of the Association.

(A) Any Assessment, or any installment of an Assessment, which is not paid when due shall be deemed delinquent and shall bear interest from the date of the delinquency at the rate of twelve percent (12%) per annum, plus a late charge as set by the Board of Directors from time to time. The initial late charge shall be the greater of fifteen dollars (\$15.00) or ten percent (10%) of the unpaid amount. Late charges shall be subject to any limitations imposed by law.

(B) All Assessments, late fees, interest, monetary penalties and other fees and charges imposed or levied against any Unit or Unit Owner shall be secured by the Assessment Lien as provided for in the Condominium Act. The recording of this Declaration constitutes record notice and perfection of the Assessment Lien and no other recordation of any claim of lien shall be required. Although not required to perfect the Assessment Lien the Association shall have the right, but not the obligation, to record a notice setting forth the amount of any delinquent Assessments, monetary penalties or other fees or charges imposed or levied against the Unit or the Unit Owner which are secured by the Assessment Lien.

(C) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, monetary penalties and all other fees and charges owed to the Association in any manner allowed by law, including, but not limited to (i) bringing an action at law against the Unit Owner personally obligated to pay the delinquent amounts which came due at the time he was the Owner thereof and such action may be brought without waiving the Assessment Lien securing any such delinquent amounts, provided, however, that the personal obligation to pay delinquent Assessments which came due prior to the transfer of ownership shall not pass to successors in title; (ii)

bringing an action to foreclose its Assessment Lien against the Unit in the manner provided by law for the foreclosure of a realty mortgage; and (iii) suspending voting and recreational amenities use rights in its reasonable discretion. 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 Units purchased at such sale.

7.7 Subordination of Assessment of Lien to Mortgages. The Assessment Lien shall be subordinate to the lien of any First Mortgage. Any First Mortgagee or any other party acquiring title or coming into possession of a Unit through foreclosure of a First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid Assessments, monetary penalties and other charges and fees against the Unit which became payable prior to such sale or transfer. Any delinquent Assessments, monetary penalties and other fees and charges which are extinguished pursuant to this Section may be reallocated and assessed to all Units as a Common Expense. Any Assessments, monetary penalties and other fees and charges against the Unit which accrue prior to such sale or transfer shall remain the personal obligation of the defaulting Unit Owner.

7.8 Exemption of Unit Owner. No Unit Owner may exempt himself from liability for payment of Assessments, monetary penalties and other fees and charges levied pursuant to the Condominium Documents by waiver and nonuse of any of the Common Elements and facilities or by the abandonment of his Unit.

7.9 Certificate of Payment. The Association, on written request, shall furnish to a lienholder, Unit Owner or Person designated by a Unit Owner, a recordable statement setting forth the amount of unpaid Assessments against his Unit. The statement shall be finished within ten (10) business days after receipt of the request and is binding on the Association, the Board of Directors, and every Unit Owner. The Association may charge a reasonable administrative fee in an amount established by the Board of Directors for each such statement.

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

7.11 Reserve Contribution/Working Capital Fund. Upon the closing of the sale of each Unit by Declarant, to provide the Association with initial operating funds, the Purchaser shall pay to the Association an amount equal to two (2) times the Base Amount to be utilized for working capital and initial operating fees. Such amount shall be non-refundable and shall not be considered as an advance payment of any assessments levied by the Association pursuant to this Declaration.

Each Person who purchases or otherwise becomes the Owner of a Unit after the date established in Section 7.15 (which is the date after which reserves may be collected) and

provided such transaction involves a purchase price or exchange value, shall pay to the Association, immediately upon becoming the Owner of the Unit, an amount equal to three (3) times the Base Amount (the "Reserve Contribution"). The amount of the Reserve Contribution may be increased by the Board of Directors from time to time thereafter, provided such increase is approved by Members holding more than fifty percent (50%) of the votes in the Association.

No Reserve Contribution shall be payable with respect to: (a) the transfer or conveyance of a Unit by devise or intestate succession; (b) a transfer or conveyance of a Unit to a family trust, family limited partnership or other Person for bona fide estate planning purposes; (c) a transfer or conveyance of a Unit to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board of Directors determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Reserve Contribution in which event a Reserve Contribution shall be payable with respect to such transfer or conveyance; (d) the conveyance of a Unit by a trustee's deed following a trustee's sale under a deed of trust; or (e) a conveyance of a Unit as a result of the foreclosure of a mortgage or the forfeiture or foreclosure of a purchaser's interest under a recorded contract for the conveyance of real property or a deed in lieu of foreclosure subject to A.R.S. § 33-741, et. seq.

All Reserve Contributions shall be deposited in the reserve account pursuant to Section 7.15. Reserve Contributions shall be non-refundable and shall not be considered as an advance payment of assessments.

Payments made pursuant to this Section shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

7.12 Association's Rights in Spending Funds From Year to Year. The Association shall not be obligated to spend in any year all funds received by it in such year, and the Board of Directors may carry forward as surplus or hold in reserve (for general purposes or for specified future expenditures) any balances remaining. The Association shall not be obligated to reduce the amount of the Common Expense Assessments in any succeeding year or any other Assessments if a surplus or reserves exist from a prior year or years. Surplus funds may, in the discretion of the Board of Directors, be returned to the Unit Owners pro rata in accordance with each Unit Owner's Common Expense Liability or be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Assessments.

7.13 Monetary Penalties. In accordance with the procedures set forth in the Bylaws, or otherwise in its reasonable discretion, the Board of Directors shall have the right to levy reasonable monetary penalties against a Unit Owner for violations of the Condominium Documents.

7.14 Transfer Fee. Each Purchaser of a Unit shall pay to the Association immediately upon becoming a Unit Owner a transfer fee, if any, in such amount as may be established from time to time by the Board of Directors to compensate the Association for the administrative cost resulting from the transfer of a Unit; provided, however, no transfer fee shall be payable with

respect to a purchase of a Unit for which a payment would be due and owing to the Association pursuant to Section 7.11 of this Declaration. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail or deliver to a purchaser under § 33-1260(A) of the Condominium Act and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to § 33-1260(C) of the Condominium Act.

7.15 Reserves. Effective upon the date the first Unit is sold to a Purchaser, as distinguished from a sale of the entire Project, the Common Expense Assessments shall include reasonable amounts as determined by the Board of Directors, collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Elements. All amounts collected as reserves, whether pursuant to Section 7.11, this Section or otherwise, shall be deposited by the Board of Directors in a separate bank account (the "Reserve Account") to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board of Directors shall not expend funds designated as reserve funds for any purpose other than for purposes of repairing, replacing or maintaining the Common Elements, and in no event shall the Reserve Account be used for purposes of litigation or any other type of alternative dispute resolution proceedings involving the Board of Directors, the Association, or the Development. Withdrawal of funds from the Association's Reserve Account shall require the signatures of either (a) two (2) members of the Board of Directors; or (b) one (1) member of the Board of Directors and an officer of the Association who is not also a member of the Board of Directors. After the termination of the Period of Declarant Control, the Board of Directors shall obtain a reserve study at least once every three (3) years, which study shall at a minimum include (a) identification of the major components of the Common Elements which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years; (b) identification of the probable remaining useful life of the identified major components as of the date of the study; (c) an estimate of the cost of repair, replacement, restoration, or maintenance of the identified major components during and at the end of their useful life; and (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the identified major components during and at the end of their useful life, after subtracting total reserve funds as of the date of the study and taking into account warranties and guaranties, if any. The results of any reserve study shall be for advisory purposes only and the Board of Directors shall have the right to provide for reserves which are greater or less than those shown in the reserve study, and may take into account other factors they deem relevant in setting reserve amounts. After the termination of the Period of Declarant Control, the Board of Directors shall modify the budget for the Association in accordance with the findings of the reserve study.

7.16 User Fee Assessment. The Association may establish and charge fees for the use of certain facilities in the Condominium. By way of illustration but not of limitation, such fees may include fees for use of the clubhouse. All such fees shall be assessed to the Unit Owners as a User Fee Assessment which shall be payable within fifteen (15) days after notice of the User Fee Assessment is given to the Unit Owner.

ARTICLE 8

INSURANCE; DESTRUCTION; CONDEMNATION

8.0 Scope of Insurance Coverage.

(A) Commencing not later than the date of the first conveyance of a Unit to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(1) Property insurance on the Common Elements and Units, exclusive of improvements and betterments installed in Units by Unit Owners, issued under a standard form "All Risk of Direct Physical Loss Form" in an amount equal to the maximum insurable replacement value of the Common Elements and Units, as determined by the Board of Directors; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property insurance policy.

(2) Broad Form Comprehensive general liability insurance, for a limit to be determined by the Board of Directors, but not less than \$1,000,000.00 for any single occurrence. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and any other area of Association responsibility. Such policy shall include (i) a cross liability clause to cover liabilities of the Unit Owners as a group to a Unit Owner; (ii) medical payments insurance and contingent liability coverage arising out of the use of hired and non-owned automobiles; and (iii) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

(3) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona.

(4) Directors' and officers' liability and fidelity insurance covering all the directors and officers of the Association in such limits as the Board of Directors may determine from time to time.

(5) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board of Directors, the officers, the members of any committee or the Unit Owners, including, without limitation, fidelity bonds as may be required by the Federal National Mortgage Association or any Eligible Mortgage Holder or Eligible Insurer or Guarantor.

(6) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

(a) Each Unit Owner shall be an insured or additional insured under the policy with respect to liability arising out of his ownership of an undivided interest in the Common Elements or his membership in the Association.

(b) There shall be no subrogation with respect to the Association, its agents, servants and employees against Unit Owners and members of their household.

(c) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, shall void the policy or be a condition to recovery on the policy.

(d) The coverage afforded by such policy shall be primary and shall not be brought into contribution or proration with any insurance which may be purchased by Unit Owners or their mortgagees or beneficiaries under deeds of trust.

(e) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners.

(f) The Association shall be the insured for use and benefit of the individual Unit Owners (designated by name if required by the insurer).

(g) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the Association and each First Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial change in coverage or cancellation of the policy.

(h) Any insurance trust agreement will be recognized by the insurer.

(i) Such coverage shall not be contingent upon action by the insurance carrier's board of directors, policyholders or members or permit claims for contribution or assessments to be made against Unit Owners or their Mortgagees, including Eligible Mortgage Holders, or Eligible Insurers or Guarantors.

(7) If there is a steam boiler used in connection with the Condominium, boiler explosion insurance evidenced by the standard form of boiler machinery insurance policy and providing coverage in the minimum amount of \$50,000.00 per accident per location.

(8) If the Condominium (or portion thereof) is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket policy" of flood insurance on the Condominium (or portion thereof) in the flood plain or having special flood hazards in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other property covered on the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended.

(9) "Agreed Amount," "Inflation Guard," and "Building Ordinance or Law" endorsements, except where expressly not applicable or not available.

(10) The Association shall require any management agent of the Association to maintain its own fidelity bond. The total amount of fidelity bonds so maintained shall be based upon the best business judgment of the Board, and shall not be less than the greater of (i) the amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Condominium, (ii) the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond, or (iii) the sum equal to three (3) months aggregate Common Expense Assessments on all Units plus reserve funds. The fidelity bond maintained by the management agent shall cover funds maintained in bank accounts of the management agent and need not name the Association as an obligee.

(B) If, at the time of a loss insured under an insurance policy purchased by the Association, the loss is also insured under an insurance policy purchased by a Unit Owner, the Association's policy shall provide primary coverage.

(C) Notwithstanding the scope of insurance specifically set forth above, the Association shall maintain, at all times, insurance against such losses and perils, in such amounts, upon such terms and subject to such conditions, as may be prescribed by any Agency from time to time.

(D) The Association, any member of the Board of Directors, any officer and Declarant shall not be liable to any Person or mortgagee if any risks or hazards are not covered by the insurance obtained by the Association or if the amount of such insurance is not adequate.

8.1 Payment of Premiums/Deductibles. Premiums for all insurance obtained by the Association pursuant to this Article shall be Common Expenses and shall be paid for by the Association; provided, however, the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances, or of the Common Elements by a Unit Owner or his family members, guests, invitees, tenants, lessees or other occupants, shall be assessed against that particular Unit Owner.

Insurance deductibles in connection with insurance obtained by the Association shall be Common Expenses and shall be paid for by the Association; provided, however, a Unit Owner shall be assessed the amount of the deductible under any insurance policy provided by the

Association that is payable by the Association in connection with a claim which results from the negligence or willful misconduct or omission of the Unit Owner or his family members, guests, invitees, tenants, lessees or other occupants.

8.2 Insurance Obtained by Unit Owners. The issuance of insurance policies to the Association pursuant to this Article shall not prevent a Unit Owner from obtaining insurance for his own benefit and at his own expense covering his Unit, his personal property and providing personal liability coverage.

8.3 Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided in §33-1253 of the Condominium Act.

8.4 Certificate of Insurance. An insurer that has issued an insurance policy pursuant to this Article shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner, mortgagee, or beneficiary under a Deed of Trust. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known address.

8.5 Restoration of Condominium in Event of Destruction.

(A) Except as otherwise provided in this Declaration or required by the Condominium Act, in the event of any destruction of any portion of the Condominium, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to this Article for reconstruction or repair of the Condominium shall be used for such purpose, unless (a) the Condominium is terminated; (b) repair or restoration would be illegal under any state or local statute or ordinance governing health or safety; (c) eighty percent (80%) of the Unit Owners vote not to rebuild. The Board of Directors shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Condominium shall be reconstructed or rebuilt substantially in accordance with the applicable Plat and original construction plans if they are available, unless changes recommended by the Board of Directors have been approved in writing by sixty-seven percent (67%) of the Unit Owners and by the applicable number of First Mortgagees, Eligible Mortgage Holders and Eligible Insurers or Guarantors specified in Article 9. The cost of repair or replacement of the damaged or destroyed portion of the Condominium in excess of insurance proceeds and reserves shall be a Common Expense and shall be assessed to the Members as a Special Assessment pursuant to Section 7.4 of this Declaration.

(B) If eighty percent (80%) of the Unit Owners (including every Owner of a Unit or an allocated Limited Common Element which will not be rebuilt) vote not to rebuild, and the Condominium is not terminated in accordance with the Act, the insurance proceeds shall be distributed in proportion to their interests in the Common Elements to the Owners of those Units and the Owners to which those Limited Common Elements were allocated, or to lienholders as their interests may appear. The remainder of the proceeds shall be distributed to all Unit Owners or lienholders as their interests may appear in proportion to Common Element interests of all the Units. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be automatically reallocated as if the Unit had been condemned under § 33-1206(A) of the Condominium Act, and the Association shall prepare, execute and record an amendment to this Declaration reflecting the reallocation.

(C) Notwithstanding any provisions of this Article to the contrary, the distribution of insurance proceeds resulting from the damage or destruction of all or any part of the Common Elements shall be distributed as provided in the Act in the event of a termination of the Condominium.

(D) The Association shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed building or any other portion of the Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such building or any other portion of the Common Elements. Any settlement made by the Association in good faith shall be binding upon all Owners and First Mortgagees. Insurance proceeds for any damage or destruction of any part of the Condominium covered by property insurance maintained by the Association shall be paid to the Association and not to any First Mortgagee or other lienholder. The Association shall hold any proceeds in trust for the Unit Owners and lienholders as their interests may appear. Except as otherwise provided in Sections 8.5(A) and 8.5(B) of this Declaration, all insurance proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements, and the Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged or destroyed Common Elements have been completely repaired or restored or the Condominium is terminated.

8.6 Repair of Units. Installation of improvements to, and repair of any damage to, the interior of a Unit not covered by property insurance maintained by the Association shall be made by and at the individual expense of the Owner of that Unit and shall be completed as promptly as practicable and in a lawful and workmanlike manner.

8.7 Priority. Nothing contained in this Article shall entitle an Owner to priority over any lender under a lien encumbering his Unit as to any portion of insurance proceeds allocated to such Unit.

8.8 Condemnation. The term "Taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened Taking of all or any portion of the Common Elements, the Owners hereby appoint the Board and such persons as the Board may designate to represent all of the Owners in connection with the Taking. The Board shall act, in its sole discretion, with respect to any awards made or to be made in connection with the Taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any award received on account of the Taking shall be paid to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold any condemnation proceeds in trust for Unit Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in §33-1206 of the Condominium Act.

8.9 FHLMC Requirements. Notwithstanding any provision of this Article 8, if at any time any of the Units are covered by mortgages or deeds of trust which are required in writing by the holder thereof to qualify for further sale thereof to the Federal Home Loan Mortgage Corporation ("FHLMC") (or any successor to such corporation which performs its present function), the Association shall at all times carry all insurance in such amounts and containing all provisions as are required from time to time by the FHLMC to be maintained by the homeowners association of condominium regimes unless such coverage is unavailable or waived by the FHLMC in writing. If the FHLMC requires less coverage or other protection than is specifically required by this Article 8, the Association shall be free to provide such lesser coverage and protection. The Association shall furnish to the FHLMC or any First Mortgagee requesting the same in writing, any claim or notification of damage or other loss covered by any of the types of insurance provided for in this Article 8.

ARTICLE 9

RIGHTS OF FIRST MORTGAGEES

9.0 Notification to First Mortgagees. Upon receipt by the Association of a written request from a First Mortgagee or insurer or governmental guarantor of a First Mortgage informing the Association of its correct name and mailing address and number or address of the Unit to which the request relates, the Association shall provide such Eligible Mortgage Holder or Eligible Insurer or Guarantor with timely written notice of the following:

(A) Any condemnation loss or any casualty loss which affects either a material portion of the Condominium or any Unit on which there is a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor;

(B) Any delinquency in the payment of Assessments or charges owed by a Unit Owner subject to a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer or Guarantor or any other default in the performance by the Unit Owner of any obligation under the Condominium Documents, which delinquency or default remains uncured for the period of sixty (60) days;

(C) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(D) Any proposed action which requires the consent of a specified percentage of Eligible Mortgage Holders as set forth in this Article.

9.1 Approval Required for Amendment to Condominium Documents.

(A) The approval of Unit Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association and of Eligible Mortgage Holders holding First Mortgages on Units the Unit Owners of which have at least fifty-one percent (51%) of the votes in the Association allocated to Unit Owners of all Units subject to First Mortgages held by Eligible Mortgage Holders shall be required to add or amend any material provisions of the Declaration, Articles or Bylaws which establish, provide for, govern or regulate any of the following:

- (1) Voting rights;
- (2) Assessments or the priority of assessment liens;
- (3) Reserves for maintenance, repair and replacement of Common Elements;
- (4) Insurance or fidelity bonds;
- (5) Responsibility for maintenance and repairs;
- (6) Expansion or contraction of the Condominium, or the addition or annexation of property to the Condominium;
- (7) Boundaries of any Unit;
- (8) Reallocation of interests in the Common Elements or Limited Common Elements or rights to their use;
- (9) Convertibility of Units into Common Elements or of Common Elements into Units;
- (10) Leasing of Units;
- (11) Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit;

(12) A decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;

(13) Restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents;

(14) Any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or

(15) Any provisions which expressly benefit First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors.

(B) Any action to terminate the legal status of the Condominium for reasons other than substantial destruction or condemnation of the Condominium must be approved by Unit Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association and by Eligible Mortgage Holders holding First Mortgages on Units the Unit Owners of which have at least sixty-seven percent (67%) of the votes in the Association allocated to Unit Owners of all Units subject to First Mortgages held by Eligible Mortgage Holders.

(C) Any First Mortgagee who receives a written request by certified or registered mail, return receipt requested, to approve additions or amendments to this Declaration, the Articles or the Bylaws who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

(D) The approvals required by this Section shall not apply to amendments that may be executed by Declarant in the exercise of its Development Rights.

9.2 Prohibition Against Right of First Refusal. Except as provided in Section 4.20, the right of a Unit Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal, option to purchase or similar restriction. This Section may not be amended or modified without the prior written consent of all First Mortgagees of record at the time of the requested amendment or modification.

9.3 Right of Inspection of Records. Any Unit Owner, Eligible Mortgage Holder or Eligible Insurer or Guarantor will, upon written request, be entitled to inspect the current copies of the Condominium Documents and the books, records and financial statements of the Association during normal business hours. In addition, upon written request of any Agency, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting Agency; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

Notwithstanding the foregoing, the Board of Directors may withhold from disclosure such books, records and documents of the Association, or portions thereof designated under §33-1258 of the Condominium Act.

9.4 Prior Written Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the Units or the Common Elements, unless at least two-thirds (2/3) of all First Mortgagees (based upon one vote for each First Mortgage owned) or Unit Owners (other than Declarant or other sponsor, developer or builder of the Condominium) of the Units have given their prior written approval, the Association shall not be entitled to:

(A) by act or omission, seek to abandon or terminate this Declaration or the Condominium;

(B) change the pro rata interest or obligations of any individual Unit for the purpose of: (i) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;

(C) partition or subdivide any Unit;

(D) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this Section; or

(E) use hazard insurance proceeds for losses to any Units or the Common Elements for any purpose other than the repair, replacement or reconstruction of such Units or the Common Elements.

Nothing contained in this Section or any other provision of this Declaration shall be deemed to grant the Association the right to partition any Unit without the consent of the Owners thereof. Any partition of a Unit shall be subject to such limitations and prohibitions as may be set forth elsewhere in this Declaration or as may be provided under Arizona law.

9.5 Liens Prior to First Mortgage. All taxes, assessments, and charges which may become liens prior to the First Mortgage under local law shall relate only to the individual Unit and not to the Condominium as a whole.

9.6 Condemnation or Insurance Proceeds. No Unit Owner, or any other party, shall have priority over any rights of any First Mortgagee of the Unit pursuant to its mortgage in case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common elements. Subject to the foregoing, the allocation of awards for the exercise of eminent domain, or deeds in lieu thereof; shall be governed by the provisions of § 33-1206 of the Condominium Act.

9.7 Limitation on Partition and Subdivision. No Unit shall be partitioned or subdivided without the prior written approval of any First Mortgagee of that Unit.

9.8 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article and any other provision of the Condominium Documents, the provisions of this Article shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this Article or between the provisions of this Article and any other provision of the Condominium Documents with respect to the number or percentage of Unit Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors that must consent to (i) an amendment of this Declaration, the Articles or the Bylaws, (ii) a termination of the Condominium, or (iii) certain actions of the Association as specified in this Article, then the provision requiring the consent of the greatest number or percentage of Unit Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors shall prevail; provided further, however, that Declarant, without the consent of any Unit Owner or First Mortgagee being required, shall have the right to amend the Condominium Documents during the Period of Declarant Control as provided above.

9.9 References to FHA, VA and Other Agencies. In various places throughout the Condominium Documents, references are made to the Department of Veterans Affairs or Veterans Administration ("VA"), the Federal Housing Administration ("FHA") and other Agencies, and, in particular, to various consents or approvals required of one or more of such agencies. Such references are included so as to cause the Condominium Documents to meet certain requirements of such agencies should Declarant request approval of the Condominium by either or both of those agencies. However, Declarant shall have no obligation to request approval of the Condominium by any of such agencies. Unless and until any such Agency has approved the Condominium as acceptable for insured or guaranteed loans and at any time during which such approval, once given, has been revoked, withdrawn, canceled or suspended and there are no outstanding mortgages or deeds of trust recorded against a Unit to secure payment of an insured or guaranteed loan by any of such agencies, all references herein to required approvals or consents of such agencies shall be deemed null and void and of no further force and effect.

9.10 FHA/VA Approval. If VA or FHA certification is obtained by Declarant, the following actions will require the prior approval of the VA and FHA, unless such agencies have waived such requirements: (1) annexation of additional properties into the Condominium (unless such annexation is in accordance with a plan of annexation or expansion previously approved by such agencies); (ii) mergers and consolidations; (iii) mortgaging or otherwise encumbering Common Elements; (iv) dedication or other transfer of Common Elements; (v) dissolution of the Association, and (vi) amendment of provisions in the Articles, this Declaration or the Bylaws to the extent required to be approved by the FHA or VA pursuant to their rules and regulations.

ARTICLE 10

GENERAL PROVISIONS

10.0 Development Rights. Notwithstanding anything to the contrary within the Condominium Documents, Declarant hereby expressly reserves the right, but not the obligation, to do any of the following:

- (A) Add real estate to the Condominium;
- (B) Create easements, Units, Common Elements or Limited Common Elements within the Condominium;
- (C) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units;
- (D) Withdraw real estate from the Condominium;
- (E) Make the Condominium part of a larger condominium or planned community;
- (F) Amend the Condominium Documents during the Period of Declarant Control to correct any error or inconsistency, or to clarify any provision, in the Declaration, if the amendment does not materially adversely affect the rights of any Unit Owner;
- (G) Amend the Condominium Documents during the Period of Declarant Control to comply with (a) the Condominium Act, (b) the rules or guidelines, in effect from time to time, of any Agency, (c) the rules or requirements of any federal, state or local governmental entity or agency whose approval of the Condominium or the Condominium Documents is required by law or requested by Declarant, or (d) any other applicable law; and
- (H) Develop the Condominium in one or more phases.

10.1 Special Declarant Rights. Notwithstanding anything to the contrary within the Condominium Documents, Declarant hereby expressly reserves the right, but not the obligation, to do any of the following:

- (A) Construct Improvements provided for in this Declaration or shown on the Plat;
- (B) Exercise any Development Right;

(C) Maintain sales offices, management offices, models and signs advertising the Condominium and Units therein as provided in Section 3.3 of this Declaration and as otherwise determined by Declarant in connection with Declarant's sales and leasing purposes;

(D) Use easements through the Common Elements for the purpose of making Improvements within the Condominium or within real estate that may be added to the Condominium;

(E) Appoint and remove any officer of the Association and any member of the Board of Directors during the Period of Declarant Control; and

(F) Appoint and remove the members of any Architectural Committee established by the Board of Directors.

10.2 Enforcement. The Association, Declarant or any Unit Owner, shall have the standing, power and/or right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of the Condominium Documents and to obtain injunctive relief and damages, and its costs in doing so, including, but not limited to, reasonable attorneys' fees, together with interest thereon from the date the costs are expended at the rate of twelve percent (12%) per annum, and such costs shall constitute an Assessment Lien on all Units owned by the Unit Owner or Unit Owners against whom the action is taken (or against whose lessees, tenants or other occupants, guests or invitees the action is taken), which Assessment Lien shall have the priority and may be enforced in the manner described herein. Failure by the Association, Declarant or by any Unit Owner to enforce any covenant or restriction contained in the Condominium Documents shall in no event be deemed a waiver of the right to do so thereafter. To the extent that this Declaration grants Declarant, the Association or any Unit Owner the right to use summary abatement or similar means to enforce the restrictions set forth in this Declaration, judicial proceedings must be instituted before any items of construction can be altered or demolished. Each Owner shall be subject to all rights and duties assigned to Unit Owners under this Declaration.

10.3 Severability. Invalidation of any covenant or restriction by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

10.4 Duration. Except as they may be earlier terminated or amended pursuant to this Declaration, the covenants and restrictions of this Declaration shall run with and bind the Condominium for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

10.5 Termination of Condominium. Subject to the further provisions of this Declaration regarding notice and consent requirements, the Condominium may be terminated only in the manner provided for in the Condominium Act.

10.6 Amendment.

(A) Except in cases of amendments that may be executed by Declarant in the exercise of its Development Rights under this Declaration or under §33-1220 of the Condominium Act, by the Association under §§33-1206 or 33-1216(D)) of the Condominium Act, or by certain Unit Owners under §§33-1218(B), 33-1222, 33-1223 or 33-1228(B) of the Condominium Act and this Declaration, and subject to the requirements of Article 9 and applicable law (including without limitation the Condominium Act), and except to the extent permitted or required by other provisions of the Condominium Act, this Declaration, and the Plat may be amended only by the agreement or affirmative vote of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, without regard to whether such amendment has uniform application to the Units or the Condominium as a whole.

(B) Except to the extent expressly permitted or required by the Condominium Act or this Declaration, an amendment to the Declaration shall not create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any Unit, the allocated interest of a Unit, or the use as to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.

(C) An amendment to the Declaration shall not terminate or decrease any unexpired Development Right, Special Declarant Right or Period of Declarant Control unless Declarant approves the amendment in writing.

(D) During the Period of Declarant Control Declarant shall have the right to amend the Declaration as set forth above.

(E) During the Period of Declarant Control, Declarant shall have the right to amend the Condominium Documents to comply with applicable law or correct any error or inconsistency therein if the amendment does not materially adversely affect the rights of any Unit Owner, or to exercise any Development Right or Special Declarant Right reserved herein in the manner provided in § 33-1220 of the Condominium Act.

(F) Any amendment adopted by the Unit Owners pursuant to this Declaration shall be signed by an officer of the Association and shall be recorded with the county recorder of each county within which lies any portion of the Condominium. Any such amendment shall certify that the amendment has been approved as required by this Declaration. Any amendment made by Declarant pursuant to this Declaration or the Condominium Act shall be executed by Declarant and shall be recorded with the county recorder of each county within which lies any portion of the Condominium.

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

10.8 Notices. All notices, demands, statements or other communications required or permitted to be given or served under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed as follows: (i) if to a Unit Owner, at the address at which the Unit Owner shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Unit Owner; or (ii) if to the Association, Declarant or the Board of Directors, to such address as shall be designated by notice in writing to the Unit Owners pursuant to this Section. A Unit Owner may change his address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association pursuant to this Section. A notice given by mail, whether regular, certified or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three days (3) after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Each Unit Owner shall file his correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

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

10.10 Gender. The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this Declaration apply to either entities or individuals, or men or women, shall in all cases be assumed as though in each case fully expressed.

10.11 Topic Headings: References to an "Article", a "Section" or an "Exhibit". The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or of this Declaration. References to an "Article" a "Section" or an "Exhibit" without further attribution are hereby

deemed to refer to articles of, sections of or exhibits to, as the case may be, this Declaration. Any Exhibit to this Declaration referenced herein and/or attached hereto is deemed incorporated herein by such reference for all purposes.

10.12 Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Owner or Member from any liability or obligation incurred under, or in any way connected with, the Association during the period of such ownership or membership, or impair any rights or remedies which the Association may have against such former Owner or Member arising out of, or in any way connected with, such ownership or membership and the covenants and obligations incident thereto.

10.13 Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, the Bylaws or the Rules, the provisions of this Declaration shall prevail.

10.14 Joint and Several Liability. In the case of joint ownership of a Unit, the liabilities and obligations of each of the joint Unit Owners set forth in, or imposed by, the Condominium Documents shall be joint and several.

10.15 Guests and Tenants. Each Unit Owner shall, to the extent permitted by Arizona law, be responsible for compliance by his agents, tenants, lessees, guests, invitees, licensees and their respective servants, agents, and employees with the provisions of the Condominium Documents. A Unit Owner's failure to ensure compliance by such persons shall be grounds for the same action available to the Association or any other Unit Owner by reason of such Unit Owner's own noncompliance.

10.16 Attorneys' Fees. In the event Declarant, the Association or any Unit Owner employs an attorney or attorneys to enforce an Assessment Lien or to collect any amounts due from a Unit Owner or to enforce compliance with or recover damages for any violation of or noncompliance with the Condominium Documents, the prevailing party in any such action shall be entitled to recover from the other party the reasonable attorneys' fees incurred in the action and such fees shall constitute an Assessment Lien on all Units owned by the Unit Owner or Unit Owners against whom the action is taken (or against whose tenants, lessees, or other occupants, guests or invitees the action is taken), which Assessment Lien shall have the priority and may be enforced in the manner described herein.

10.17 Number of Days. In computing the number of days for purposes of any provision of the Condominium Documents, all days shall be counted including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

10.18 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Unit Owner of any restriction or provision of the Condominium Documents. The notice shall be executed and acknowledged by an officer of the Association and

shall contain substantially the following information: (i) the name of the Unit Owner, (ii) the legal description or street address of the Unit 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 Unit Owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the Unit Owner and to any subsequent purchaser of the Unit that there is a violation of the provisions of the Condominium Documents. If after the recordation of such Notice, it is determined by the Association that the violation referred to in the Notice of Violation does not exist or has been cured, the Association shall record a notice of compliance which shall state the legal description or street address of the Unit against which the Notice of Violation was recorded, and the recording data of the Notice of Violation, and which shall state that the violation referred to in the Notice of Violation has been cured, or if such be the case, that it did not exist.

10.19 Declarant's Disclaimer of Representations. While Declarant has no reason to believe that any of the provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any provisions of this Declaration. Any Unit Owner acquiring a Unit in reliance on one or more of the provisions in this Declaration shall assume all risks of the validity and enforceability thereof and by acquiring the Unit agrees to hold Declarant harmless therefrom.

10.20 Declarant's Right to Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other nonprofit corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

10.21 Restriction on Further Subdivision and Time Shares. No Unit shall be further subdivided or separated into smaller Units by any Owner, and no portion less than all of any such Unit shall be conveyed or transferred by any Owner without the prior written approval of the Board. This restriction shall not prevent the granting by an Owner thereof of an easement over part of a Unit for use by another Owner. Except for Declarant, no Owner shall establish, transfer, sell, assign or convey any time share (as defined in A.R.S.) in his Unit and any such transaction shall be void.

10.22 No Absolute Liability. No provision of the Condominium Documents shall be interpreted or construed as imposing on Unit Owners absolute liability for damage to the Common Elements or the Units. A Unit Owner shall only be responsible for damage to the Common Elements or Units caused by such Unit Owner's negligence or intentional acts.

10.23 Rule Against Perpetuities. If any of the interests, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities as codified under Arizona law or any related rule, then such provision shall continue until twenty-one (21) years after the death of the survivor of the descendants of the President of the United States living on the date this Declaration is recorded.

10.24 Termination of Certain Contracts. Notwithstanding anything in this Declaration to the contrary, the Association shall have right of termination exercisable without penalty at any time after the termination of the Period of Declarant Control and upon ninety (90) days' notice relating to:

- (i) Any management contract, employment contract or lease of recreational or parking areas or facilities; or
- (ii) Any contract or lease, including franchises and licenses, to which Declarant or an affiliate of Declarant is a party, if the Association was bound either directly or indirectly to such an agreement by Declarant or an affiliate of the Declarant.

ARTICLE 11

DISPUTE RESOLUTION

11.1 Right to Cure Alleged Defects The Condominium is not newly constructed by Declarant but was originally constructed as described in Article 12 and operated for approximately eleven (11) years as a multi-family rental apartment complex. Each Unit Owner who purchases his Unit from Declarant acknowledges and agrees in his purchase contract with Declarant that in lieu of and as a substitute for all implied warranties of any kind, Declarant issues to the Unit Owner the limited warranty (the "Limited Warranty") set forth in the Limited Warranty Agreement (the "Limited Warranty Agreement") attached as Exhibit "B" to the purchase contract, which Limited Warranty Agreement provides that the Limited Warranty extends only to the items specified in the Limited Warranty Agreement and is not transferable and that the Unit Owner accepts all other portions of the Condominium, including, but not limited to, all Common Elements, in their "AS IS" condition at the time the Unit Owner acquires title to his Unit.

The Association, all Unit Owners and all Declarant Parties (defined below) agree that it is in the best interest of the Association, the Unit Owners and the Declarant Parties to encourage the amicable resolution of Claims (defined below) to and to resolve Claims without emotional and financial costs of litigation. Therefore, the Association, all Unit Owners and all Declarant Parties agree that all Claims shall be resolved exclusively in accordance with the following dispute resolution procedures:

- (A) In the event that the Association, the Board, or any Owner or Owners (collectively, "**Claimant**") claim, contend or allege that any portion of the Common Elements and/or any other Improvements constructed by Declarant or other Declarant

Party or their agents, consultants, contractors or subcontractors (collectively, "**Agents**") are defective, or that Declarant or other Declarant Party or their Agents were negligent in the planning, design, construction or other development in connection with the conversion of the pre-existing multi-family rental apartment complex to the Condominium or failed to comply with applicable building codes or federal, state or local laws, ordinances or regulations or failed to comply with any express or implied warranty or standard or workmanship (collectively, an "**Alleged Defect**"), Declarant hereby reserves the right for itself and any other Declarant Party to inspect, repair and/or replace such Alleged Defect as set forth herein. In the event that a Claimant discovers any Alleged Defect which could be the basis for a Claim against any Declarant Party, Claimant shall notify Declarant each Declarant Party who could be responsible for the Alleged Defect, in writing, within fifteen (15) days of discovery of the Alleged Defect ("**Notice of Alleged Defect**"). A Notice of Alleged Defect shall state plainly and concisely: (i) the nature and location of the Alleged Defect; (ii) the date on which the Claimant giving the Notice of Alleged Defect first became aware of the Alleged Defect; and (iii) whether the Alleged Defect has caused any damage to any persons or property. Within a reasonable time after the receipt by Declarant of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by Declarant or any other Declarant Party, Declarant or any other Declarant Party shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Elements (including Limited Common Elements) and/or any Improvements and/or any Unit for the purposes of inspecting and/or conducting testing and, if deemed necessary by Declarant, correcting, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, Declarant or any other Declarant Party shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

(B) Nothing set forth in this Section shall be construed to impose any obligation on Declarant or any other Declarant Party to inspect, test, repair, or replace any item or any Alleged Defect for which Declarant or any other Declarant Party is not otherwise obligated under applicable law or the Limited Warranty provided by Declarant in connection with the sale of Units. The right of Declarant or any other Declarant Party to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated, except by a writing, in recordable form, executed and recorded by Declarant. In no event shall any statutes of limitations be tolled during the period in which Declarant or any other Declarant Party conducts any inspection or testing of any Alleged Defects. If the Alleged Defect is not repaired or replaced to the satisfaction of the Claimant giving the Notice of Alleged Defect within sixty (60) days after the Notice of Alleged Defect is received by the Declarant or any other Declarant Party, then the Claimant may proceed with the preparation of the delivery of a Notice of Claimant as provided in Section 11.2.

(C) Declarant shall have no obligation to inspect, test, repair or replace any Common Elements within the Condominium that were not constructed by Declarant or its agents, contractors or subcontractors.

(D) As used herein, the term “**Declarant Party**” means: Declarant and its members, managers, officers, employees and Agents; (ii) the entity which platted the Condominium if different from but affiliated with the Declarant; (iii) the construction manager for the Condominium; (iv) the subcontractors, material suppliers, labor suppliers, architects, engineers and consultants of any of the said contractors, including, but not limited to, their respective members, managers, directors, officers, partners, employees, agents and independent contractors; or (v) any employee or other representative of the Declarant who serves as a director or officer of the Association.

(E) As used herein, the term “**Claim**” means: (i) any claim or cause of action by a Claimant against a Declarant Party arising out of or related in any way to an Alleged Defect, including, without limitation, any claim or cause of action for breach of express or implied warranties, negligence or that a Declarant Party was negligent in the planning, design, engineering, grading, construction, or development of the Condominium; or (ii) any claim or cause of action against a Declarant Party arising out of or in any way related to the development of the Condominium, the conversion of the multi-family rental apartment complex into the Condominium or the management or the operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct, or breach of fiduciary duty.

(F) All legal actions initiated by a Claimant (as defined in Section 11.1(A) above) shall be brought in accordance with and subject to Sections 11.3 (Approval of Litigation), 11.4 (Mediation) and 11.5 (Binding Arbitration) below.

(G) The Association shall not be obligated to take any enforcement action if the Board of Directors determines, in its sole discretion, that because of the strength of possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board of Directors, enforcement action would not be appropriate or in the best interests of the Association.

11.2 Notice of Claim. A Claimant who contends or alleges to have a Claim against a Declarant Party (a “**Respondent**”) shall notify each Respondent in writing of the Claim (the “**Claim Notice**”), stating plainly and concisely: (a) the nature of the Claim, including date, time, location, Person involved and Respondent’s role in the Claim; (b) the factual and legal basis of the Claim; and (c) what Claimant wants Respondent to do or not to do to resolve the Claim. In the event the Claimant is the Association and the Claim involves an Alleged Defect, the Association must provide written notice (“**Notice of Claimant**”) to all Members prior to initiation of any legal action, cause of action, proceeding, reference or arbitration against a Declarant Party which notice shall (at a minimum) include (i) a description of the Claim, (ii) a description of the attempts of Declarant or other Declarant Party to correct such Alleged Defect and the opportunities provided to Declarant or other Declarant Party to correct such Alleged Defect, (iii) a certification from an engineer licensed in the State of Arizona that such Alleged Defect exists along with a description of the scope of work necessary to cure such Alleged Defect and a resume of such engineer, (iv) the estimated cost to repair such Alleged Defect, (v) the name and professional background of the attorney retained by the Association to pursue the claim against

Declarant and a description of the relationship between such attorney and member(s) of the Board (if any), (vi) a description of the fee arrangement between such attorney and the Association, (vii) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against Declarant or other Declarant Party and the source of the funds which will be used to pay such fees and expenses, (viii) the estimated time necessary to conclude the action against Declarant or other Declarant Party, (ix) an affirmative statement from the Board that the action is in the best interests of the Association and its Members, and (x) a statement from the Board that there are no fees paid to the Board or any member of the Board, or any property manager or Association manager of the Condominium. The foregoing notice and disclosure requirements are without limitation of the requirements of A.R.S. § 33-2002.

If the Alleged Defect is alleged to be the result of an act or omission of a person licensed by the State of Arizona under Title 20 or Title 32 of the Arizona Revised Statutes (a licensed professional), then the Notice of Claimant from the Association must be accompanied by an affidavit from a Licensed Professional in the same discipline as the Licensed Professional alleged to be responsible for the Alleged Defect. The affidavit must contain the information required to be contained in a preliminary expert opinion affidavit submitted pursuant to A.R.S. § 12-2602(B).

If the claim involves an Alleged Defect, the Association must provide written notice to all Members prior to delivering a Notice of Claimant to Declarant or its agent or initiating any legal action, cause of action, proceeding or arbitration against Declarant or its agent.

11.3 Approval of Litigation. The Board shall not be authorized to incur legal expenses, including, without limitation, attorneys' fees or bring any legal proceeding of a material nature for which the claim or alleged damages or the current economic value of other available remedies would exceed \$25,000 in the aggregate, unless the Association has received the consent of those Unit Owners representing at least seventy-five percent (75%) of the votes allocated to the Members (other than votes allocated to Declarant) to commence an action or incur such expenses. The foregoing restriction shall not apply to: (i) actions to enforce the collection of Assessments or an Assessment Lien; (ii) actions to challenge ad valorem taxation or condemnation proceedings; (iii) actions to defend claims filed against the Association or to assert mandatory counterclaims therein; (iv) actions to enforce any specific covenant hereunder; or (v) or claims brought by an Owner in his individual capacity concerning his Unit and Improvements located solely within his Unit; provided, further that each Unit Owner shall be bound by the mandatory arbitration provisions set forth herein and in any contract of purchase. In the event of any conflict between the arbitration provisions of this Article 11 and the contract of purchase between the Unit Owner and Declarant, the contract of purchase shall prevail. Otherwise, all provisions of this Article 11 shall be binding upon the Unit Owner. The Association must finance any legal proceeding with monies that are specifically collected for same and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal proceedings, all Unit Owners must notify prospective purchasers of such legal proceedings and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 11.1 above.

11.4 Mediation. The Claimant and Respondent shall negotiate in good faith in an attempt to resolve the Claim. If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be agreed upon by the Parties ("**Termination of Negotiations**"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation by the American Arbitration Association ("AAA") or such other independent mediation service selected by mutual agreement of the Claimant and the Respondent. If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim. If the parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("**Termination of Mediation Notice**"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediate was terminated.

11.5 Binding Arbitration. In the event a Claim is not resolved by mediation, Claimant shall have ninety (90) days after the date of the Termination of Mediation Notice to submit the to submit the claim to binding arbitration in accordance with this Section 11.5. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. A Claimant may only submit a Claim in arbitration on its own behalf. No Claimant may submit a Claim in arbitration as a representative or member of a Class and no Claim may be arbitrated as a class action. The Association, the Unit Owners and all Declarant Parties agree that all Claims that are not resolved by negotiation or mediation shall be resolved exclusively by arbitration conducted in accordance with this Section 11.5. The Association, the Unit Owners and all Declarant Parties waive their rights to have a Claim resolved by a court, including, without limitation, the right to file a legal action as a representative or member of a class or in any other representative capacity. Claimant and Respondent shall cooperate in good faith to assure that all Declarant Parties who may be liable to the Claimant or Respondent with respect to the Claim are made parties to the arbitration. If the Claimant submits a Claim to binding arbitration in accordance with this Section 11.5, the arbitration shall be conducted in accordance with the following rules:

(A) The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the AAA Commercial Arbitration Rules, as amended from time to time, or such other rules as the AAA may determine to be appropriate (the "AAA Rules"). The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501 et seq., to the extent not inconsistent with the Federal Arbitration Act. In the event of a conflict between the AAA Rules and this Section, the provisions of this Section shall govern.

(B) The parties shall appoint a single arbitrator by mutual agreement; provided, however, that if the amount of the Alleged Defect exceeds \$500,000.00, then the matter shall be arbitrated by a panel of three (3) arbitrators. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the

selection of an arbitrator (or arbitrators) willing to serve, the AAA shall appoint a qualified arbitrator or arbitrators to serve. Any arbitrator chosen in accordance with this Section is referred to herein as the “**Arbitrator**”. The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator’s occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in this Section. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator’s hourly rate not to exceed Three Hundred Dollars (\$300.00) per hour, unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator’s compensation and expenses shall be advanced equally by the parties.

(C) Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Guidelines, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

(D) The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties’ attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential. Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend. All statutes of limitation applicable to claims which are subject to binding arbitration pursuant to this Section shall apply to the commencement of arbitration proceedings under this Section. If arbitration proceedings are not initiated within the applicable period, the claim shall forever be barred.

(E) The Arbitrator shall promptly (within sixty (60) days of the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator shall not award, and shall not have the power to award, any punitive damages. The Arbitrator shall not award, and shall not have the power to award, indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party, but each party shall bear the costs of its own attorneys' fees and expert witness fees. As further provided below, the right to punitive and consequential damages is waived by the parties.

11.6 Statute of Limitations. All statutes of limitations applicable to claims shall apply to the commencement of arbitration proceedings under Section 11.5. If the arbitration proceedings are not initiated within the time period provided by Arizona law for the filing of a legal action with respect to the claim, the claim shall forever be barred.

11.7 Federal Arbitration Act. Because many of the materials and products incorporated into the Condominium are manufactured in other states, the development and conveyance of the Units evidence a transaction involving interstate commerce and the Federal Arbitration Act (9 U.S.C. § 1, et. seq.) now in effect or as it may be hereafter amended, will govern the interpretation and enforcement of the arbitration provisions of this Declaration.

11.8 Excess Funds. In the event the Association recovers any funds from Declarant (or any other Declarant Party or Person) to repair an Alleged Defect, any excess funds remaining after repair of such Alleged Defect shall be paid into the Association's Reserve Account.

11.9 Waivers. **BY ACCEPTANCE OF A DEED OR BY ACQUIRING A UNIT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE FEDERAL ARBITRATION ACT, THE ARIZONA REVISED STATUTES PERTAINING TO THE ARBITRATION OF DISPUTES TO THE EXTENT NOT INCONSISTENT WITH THE FEDERAL ARBITRATION ACT AND THE PROVISIONS OF ARTICLE 11 AND WAIVES THE RIGHT TO PURSUE ANY DECLARANT PARTY IN ANY MANNER OTHER THAN AS PROVIDED IN ARTICLE 11. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN THIS ARTICLE 11, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH CLAIM TRIED BEFORE A JURY. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A CLAIM. BY ACCEPTANCE OF A DEED OR BY ACQUIRING A UNIT, EACH UNIT OWNER VOLUNTARILY ACKNOWLEDGES THAT HE IS GIVING UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A CLAIM.**

IF A UNIT OWNER OR THE ASSOCIATION FILES A CIVIL ACTION ASSERTING ANY CLAIM AGAINST ANY DECLARANT PARTY INSTEAD OF COMPLYING WITH THE DISPUTE RESOLUTION PROVISIONS OF THIS ARTICLE 11 (OR THE OTHER DISPUTE RESOLUTION PROVISIONS, AS APPLICABLE), THE PARTY AGGRIEVED BY THE FILING MAY APPLY TO THE MARICOPA COUNTY SUPERIOR COURT FOR AN ORDER DISMISSING THE CIVIL ACTION AND COMPELLING THE FILING PARTY TO SUBMIT THE CLAIM TO THE DISPUTE RESOLUTION PROVISIONS APPLICABLE THERETO. THE APPLYING PARTY SHALL BE ENTITLED TO IMMEDIATE ENTRY OF AN ORDER OF DISMISSAL AND A MANDATORY AWARD OF ATTORNEYS' FEES AND TAXABLE COSTS INCURRED IN COMPELLING COMPLIANCE WITH THE APPLICABLE DISPUTE RESOLUTION PROVISION.

IN THE EVENT THE ARBITRATION PROVISIONS OF THIS ARTICLE 11 ARE HELD NOT TO APPLY OR ARE HELD INVALID OR UNENFORCEABLE FOR ANY REASON, ALL DISPUTES SHALL BE TRIED BEFORE A JUDGE IN A COURT OF COMPETENT JURISDICTION WITHOUT A JURY. EACH OWNER AND THE ASSOCIATION, BY ACCEPTING A DEED TO ANY PORTION OF THE PROPERTY, HEREBY WAIVES AND COVENANTS NOT TO ASSERT THEIR CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY DISPUTES, INCLUDING, BUT NOT LIMITED TO, DISPUTES RELATING TO CONSTRUCTION DEFECTS, MISREPRESENTATION OR DECLARANT'S FAILURE TO DISCLOSE MATERIAL FACTS. THIS MUTUAL WAIVER OF JURY TRIAL SHALL BE BINDING UPON THE RESPECTIVE SUCCESSORS AND ASSIGNS OF SUCH PARTIES AND UPON ALL PERSONS AND ENTITIES ASSERTING RIGHTS OR CLAIMS OR OTHERWISE ACTING ON BEHALF OF DECLARANT, ANY OWNER, THE ASSOCIATION OR THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

11.10 Repurchase Option for Alleged Defect Claims. Notwithstanding anything in this Declaration to the contrary, in the event any Unit Owner, either directly or through the Association, shall commence an action against any Declarant Party in connection with any Alleged Defects in such Unit Owner's Unit, Declarant (or any assignee of Declarant) shall have the option (but not the obligation) to purchase such Unit on the following terms and conditions:

(A) The purchase price shall be an amount equal to the sum of the following, less any sums paid to such Unit Owner under any homeowner's warranty in connection with the Alleged Defect:

(i) The purchase price paid by the original Unit Owner of the Unit when originally purchased from Declarant;

(ii) The value of any Improvements made to the Unit by anyone other than Declarant;

(iii) The Unit Owner's reasonable moving costs; and

(iv) Any closing costs, including loan fees and/or “points” incurred by the Unit Owner in connection with the purchase of another primary residence within ninety (90) days after the closing of the repurchase provided for herein.

(B) Close of escrow shall not occur later than sixty (60) days after written notice from Declarant to the Unit Owner of Declarant’s intent to exercise the option herein.

(C) Title shall be conveyed to Declarant free and clear of all monetary liens and encumbrances other than non-delinquent real estate taxes.

(D) All closing costs in connection with the repurchase shall be paid by Declarant.

(E) Exercise of the repurchase option as provided hereinabove shall constitute full and final satisfaction of all claims, relating to the subject Unit, including claims relating to the Alleged Defect. The Unit Owner (or Association, as applicable) shall promptly execute and deliver any notice of dismissal or other document necessary or appropriate to evidence such satisfaction.

11.11 Conflicts. In the event of any conflict between this Article 11 and any other provisions of the Condominium Documents, this Article 11 shall control.

ARTICLE 12

CONDOMINIUM CONVERSION STATEMENT

12.1 Disclosure and Owner Acknowledgments.

12.1.1 By acceptance of a deed for a Unit with the Condominium, each Owner shall be deemed to have acknowledged, agreed to and accepted the following: (i) that in all likelihood, Units contain some variations and deviations from the original plans and specifications including, but not limited to, minor variations as to the location of the walls of a Unit; (ii) that there may be minor deviations in the Common Elements, Limited Common Elements, and in a Unit from Declarant’s model Units located within the Condominium and from illustrations and designs shown in promotional materials; (iii) that floor plans, maps, landscaping and elevation renderings included within promotional brochures and Condominium information may not have been drawn to scale, and any square footage of dimensions shown in such materials are only approximations; (iv) that the as-built location of utility lines, utility improvements (such as, but not limited to, junction boxes, transformers or pedestals) and sewer taps, may vary from locations shown on the site layout plans; (vii) that the character and uses of property surrounding and in the vicinity of the Condominium may change; (viii) construction activity (including, but not limited to, noise and the transportation of labor, material and equipment) will continue in the Condominium until all Units are renovated and may cause varying degrees of increased traffic, dust, noise and other inconveniences to the Owners and occupants; and (ix) in any multi-family

dwelling, sound may be audible between Units (particularly where the sound level of the source is sufficiently high and the background noise in an adjacent Unit is very low) and each Owner and occupant agrees to accept their Unit subject to sound impacts from adjacent Units and properties, to accept responsibility for minimizing noise transmission from their Unit, and to adhere to any Rules which are designed to minimize noise transmission. Declarant and Builder Parties disclaim and shall have no liability or responsibility in connection with the foregoing and by acceptance of a deed each Owner for itself and its respective Occupants and guests, or invitees release Declarant from any and all responsibility, obligation or liability resulting from the existence or effect of any of the foregoing items.

12.1.2 No representation or warranty is made by Declarant, or any of its representatives or agents, with respect to the presence or continued existence of any view or scene from any portion of a Unit or the Condominium. The particular view, if any, which a Unit or the Condominium currently enjoys may be impaired and may be obstructed by the construction of other Buildings, Improvements or facilities within or outside of the Condominium.

12.1.3 Condominium Conversion Statement. By acceptance of a deed for a Unit within the Condominium, each Owner shall be deemed to have acknowledged acceptance of the following:

- (a) The Condominium is a conversion from wholly multi-family rental to condominiums, which requires that this Declaration contain a statement of the following:
 - (i) Original construction of the Buildings and other Improvements was completed in 1994;
 - (ii) The following are the names and addresses of the original owner, builder, developer and general contractor of the Project (the "Developer Parties") as shown on the building permit issued by the City of Phoenix:

Original Owner: Scottsdale Road Partners
Address: 11189 Sorrento Valley Rd., #103
San Diego, California 92121

Builder: Scottsdale Road Partners
Address: 11189 Sorrento Valley Rd., #103
San Diego, California 92121

Developer: Scottsdale Road Partners
Address: 11189 Sorrento Valley Rd., #103
San Diego, California 92121

General Contractor: Scottsdale Road Partners
Address: 11189 Sorrento Valley Rd., #103
San Diego, California 92121

- (iii) The following are the names and addresses of each subsequent owner of the Property as determined by a search of the County's records in the County in which the Project is located:

San Mateo Apartments, Inc.
c/o Squire, Sanders & Dempsey
Two Renaissance Square
40 North Central Ave., #2700
Phoenix, Arizona 85004
Attn: David W. Kreutzberg, Esq.

The San Mateo Apartments, LLC
c/o Alston, Courtnage, Proctor & Bassetti LLP
1000 Second Ave., #3900
Seattle, Washington 98104-1045
Attn: Thomas Read, Esq.

The Plaza Residences, LLLP
7009 E. Acoma Dr., #1004
Scottsdale, Arizona 85254

- (iv) Declarant agrees to provide the following information upon written request from a Unit Owner:

- (a) the name and address of any builder, developer, general contractor, subcontractor, architect and engineer who designed or made Improvements to the Property immediately before the first Unit was sold to any Owner; and
- (b) a specific description of all Improvements made to the Condominium.

12.2 Economic Potential. Neither Declarant, nor any of its partners, employees, agents or representatives has made any representation concerning potential for future profit, rental income potential, tax advantages, or investment potential of any Unit.

12.3 Gated Entries. Regarding any access gates at the entrances to the Development: (i) there are no guaranties that such access entries will provide any security and safety for all person or that unauthorized persons will not gain access to the Development; and (ii) such access gates may restrict or delay entry into the Development for Owners, occupants, lessees and invitees, and for emergency and safety personnel. Each Owner, occupant, lessee or invitee of a Unit assumes all risk associated with such controlled access. Neither Declarant nor the Association shall be held liable for any loss or damage by reason of restricted or delayed entry into the Development or failure to provide adequate security or ineffectiveness of safety measures undertaken at the Development.

12.4 Paint. Due to the large quantity of paint used in the Development, slight variations in paint shade may exist from Unit to Unit and each Owner, occupant lessee and invitees hereby waive all claims against Declarant related to such variations. Such matters are not warranty issues.

12.5 Wood Building Materials. Wood and wood products contain moisture when installed and will dry, shrink and settle after installation. As a result, nails may "pop" from drywall locations, baseboards may move slightly and exposed wood may straighten or crack. Doors made of wood may shrink, swell or warp. Swelling may affect the way a door fits in an opening and it may cause sticking. Such matters are not warranty issues.

12.6 Security. From time to time the Association may, but shall not be required to, provide measures or take action which directly or indirectly are intended to improve safety at the Development; provided, however, the Association is not a provider of security services and shall have no duty to provide security at the Development. It shall be the responsibility of each Owner to protect his/her person and property and all responsibility to provide such security shall be solely with each Owner. Neither Declarant nor the Association shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken at the Development.

12.7 Severe Weather Conditions. During severe weather conditions, minor leaks around sliding doors, windows and roof vents may occur.

12.8 Sound Insulation. Each Owner understands and acknowledges that Declarant has not made any written or oral representation or warranty concerning the sound insulation capabilities of the Unit and that in any multi-family dwelling, sound, may be audible between Units, particularly where the sound level of the source is sufficiently high and the background noise in an adjacent Unit is low. Each Owner hereby agrees to accept their Unit subject to sound impacts from adjacent Units and to accept responsibility for minimizing noise transmission from the Unit and adhering to any Association Rules which are designed to minimize noise transmission.


[SIGNATURE PAGE FOLLOWS SEPARATELY]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

THE PLAZA RESIDENCES, LLLP,
an Arizona limited liability limited partnership

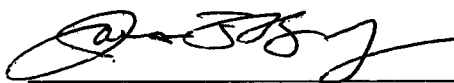
By: PCD General Partner, Inc., an Arizona
corporation, its General Partner

By: 
Calum DeSouza
Its: Secretary/Treasurer

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 28th day of November, 2005, by Calum DeSouza, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument, and acknowledged himself to be the Secretary/Treasurer of PCD General Partner, Inc., an Arizona corporation, the General Partner of THE PLAZA RESIDENCES, LLLP, an Arizona limited liability limited partnership, on behalf of the corporation for and on behalf of said limited liability limited partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires:

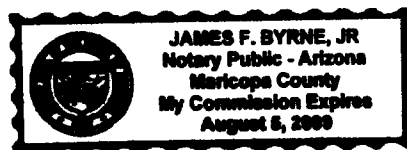


EXHIBIT "A"

LEGAL DESCRIPTION OF PARCEL

That certain real property located in the City of Phoenix, County of Maricopa, State of Arizona, having a street address of 7009 East Acoma Drive, more particularly described as follows:

That part of the East half of Section 10, Township 3 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

The Basis for the bearings used in this description are from (A) the Map of Dedication for Acoma Drive as recorded in Book 353 of Maps, page 43 and (B) from DESERT PARADISE ESTATES, a subdivision recorded in Book 352 of Maps, page 6, records of Maricopa County, Arizona.

Commencing at the Northwest corner of the Southeast quarter of said Section 10;

thence North 89 degrees 21 minutes 39 seconds East along the North line of said Southeast quarter of Section 10 (East-West mid-section line), 800.01 feet;

thence South 00 degrees 28 minutes 29 seconds East, parallel to and 800.00 feet Easterly from the West line of said Southeast quarter of Section 10, and along the East line of said DESERT PARADISE ESTATES, 15.00 feet to the point of beginning, this point being the intersection of the Southerly right-of-way line of Acoma Drive with the Easterly line of said DESERT PARADISE ESTATES, said point being on a curve having a radius point bearing North 14 degrees 18 minutes 07 seconds West, 530.00 feet;

thence along the Southerly right-of-way line of Acoma Drive, as follows:

Easterly 210.35 feet along the arc of this curve through 22 degrees 44 minutes 22 seconds of central angle;

thence North 52 degrees 57 minutes 31 seconds East, 125.95 feet;

thence South 84 degrees 07 minutes 51 seconds East, 26.37 feet to a point on a curve having a radius point bearing North 47 degrees 48 minutes 58 seconds East, 535.00 feet;

thence Easterly 230.62 feet along the arc of this curve through 24 degrees 41 minutes 52 seconds of central angle;

thence South 66 degrees 52 minutes 54 seconds East, 528.69 feet to the beginning of a curve to the left having a radius point bearing North 23 degrees 07 minutes 06 seconds East, 535.00 feet;

thence Easterly 131.62 feet along the arc of this curve, through 14 degrees 05 minutes 46 seconds of central angle;

thence leaving the said Southerly right-of-way line of Acoma Drive, South 00 degrees 57 minutes 30 seconds East, 527.89 feet to a point on the Northerly line of said DESERT PARADISE ESTATES;

thence South 89 degrees 18 minutes 36 seconds West, 1116.53 feet to a corner of said DESERT PARADISE ESTATES;

thence North 00 degrees 28 minutes 29 seconds West along the East line of said DESERT PARADISE ESTATES and along the East line of the Westerly 800.00 feet of said Southeast quarter of Section 10, 754.30 feet to the Point of Beginning.

WHEN RECORDED, RETURN TO:

4595770B-14-1-1--
coatesk

James F. Byrne, Jr., Esq.
Byrne & Shaw, PLLC
2111 E. Highland Ave., #215
Phoenix, Arizona 85016

The Talon Group

FIRST AMENDMENT TO
CONDOMINIUM DECLARATION AND DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

FOR

THE PLAZA RESIDENCES, A CONDOMINIUM

January 27, 2006

**FIRST AMENDMENT
CONDOMINIUM DECLARATION
AND
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE PLAZA RESIDENCES, A CONDOMINIUM**

THIS FIRST AMENDMENT CONDOMINIUM DECLARATION AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION FOR THE PLAZA RESIDENCES, A CONDOMINIUM (this "First Amendment"), is made as of the 27th day of January, 2006, by The Plaza Residences, LLLP, an Arizona limited liability limited partnership (the "Declarant").

RECITALS:

A. Declarant caused the Condominium Declaration and Declaration of Covenants, Conditions and Restrictions for The Plaza Residences, A Condominium (the "Declaration") to be recorded at Recording No. 2005-1896305, in the records of the County Recorder of County of Maricopa, Arizona, submitting certain real property described in the Declaration to the Condominium pursuant to the Arizona Condominium Act, A.R.S. § 33-1201, *et. seq.*

B. Unless otherwise defined in this First Amendment, each capitalized term used in this First Amendment shall have the meaning given to such term in the Declaration.

C. Section 10.6(A) of the Declaration provides that the Declarant as the owner of more than 100% of the votes of the Association has a right to amend the Declaration.

AMENDMENTS:

NOW, THEREFORE, the Declaration amends the Declaration as follows:

1. The word "Condomnium" misspelled in the title page to the Declaration is hereby changed to read "Condominium".

2. The definition of "User Fee Assessment" is hereby added to Section 1 of the Declaration as follows:

"User Fee Assessment" means any assessment levied against the Unit pursuant to Section 7.16 hereof."

3. The definition of the term "Base Amount" set forth in Section 1 of the Declaration is hereby deleted and the following is hereby inserted in its place and stead:

"Base Amount" means the sum of One Hundred Twenty and No/100 Dollars (\$120.00) for each 1 bedroom Unit (Boston Type), the amount of One Hundred Thirty-Five and No/100 Dollars (\$135.00) for each 1 bedroom Unit (Chicago Type), the amount of One Hundred Seventy and No/100 Dollars (\$170.00) for each 2 bedroom Unit (New York Type), the amount of One Hundred and Ninety and No/100 Dollars (\$190.00) for each 2 bedroom Unit (Miami Type), the amount of One Hundred Ninety-Five and No/100 Dollars (\$195.00) for each 2 bedroom Unit (Los Angeles Type), and the amount of Two Hundred and Five and No/100 Dollars (\$205.00) for each 3 bedroom Unit (San Francisco Type). In addition, Unit Owners that have a Garage Space (as hereinafter defined) set aside for their exclusive use and benefit as provided in Section 2.2 hereof shall pay in addition to the Common Expense Assessment applicable to such Unit, an additional \$10.00 per month."

4. Section 2.1.4 of the Declaration is hereby deleted in its entirety and the following is hereby inserted in its place and stead:

"2.1.4 Allocation of Interest in the Common Elements and Common Expense Liability. Each Unit's percentage of undivided interest in the Common Elements and in the Common Expense Liability shall be allocated based upon the square footage of each Unit as compared to the square footage of all Units in the Condominium so that each Unit's percentage interest in the Common Elements and the Common Expense Liability is calculated by dividing the square footage of each Unit by the total square footage of all the Units. The square footage of each Unit and the percentage of undivided interests in the Common Elements of each Unit are set forth on Exhibit "B" attached to this Declaration. The percentage interest of each Unit in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants-in-common in accordance with their respective percentage interests. The ownership interest of each Unit shall not be conveyed separate from the percentage interest in the Common Elements allocated to the Unit. The undivided percentage of interest in the Common Elements allocated to any Unit shall always be deemed conveyed and encumbered with any conveyance and encumbrance of that Unit, even though the legal description of the instrument conveying or encumbering the Unit may refer only to the fee title to the Unit."

5. Exhibit "B" attached to this First Amendment is hereby attached as Exhibit "B" to the Declaration to set forth each Unit's percentage of undivided interest in the Common Elements and the Common Expense Liability, as referenced in Section 2.1.4 of the Declaration.

6. The amount of "Nineteen Thousand and No/100 Dollars (\$19,000.00)" specified in Section 4.20 of the Declaration is hereby deleted and the amount of "Ten Thousand and No/100 Dollars (\$10,000.00)" is hereby inserted in its place and stead.

7. The following is hereby inserted after the word "Unit" in the fifth line of Section 7.3(A) of the Declaration: "(i.e., based on the Unit's percentage interest set forth in Exhibit "B" attached hereto)".

8. The words "for each Unit" are hereby inserted after the word "Assessment" in the third line of Section 7.3(C)(1) of the Declaration. The words "applicable to the Unit" are hereby inserted after the words "Base Amount" in the third line of Section 7.3(C)(1) of the Declaration.

9. The words "applicable to the Unit" are hereby inserted after the words "Base Amount" in the third line of the first full paragraph of Section 7.11 of the Declaration. The words "applicable to the Unit" are hereby inserted after the words "Base Amount" in the fifth line of the second full paragraph of Section 7.11 of the Declaration.

10. Except as amended by this First Amendment, the Declaration shall remain unchanged and in full force and effect. In the event of any conflict or inconsistency between the provisions of this First Amendment and the Declaration, this First Amendment shall control.

IN WITNESS WHEREOF, Declarant has executed this First Amendment as of the day and year first above written.

DECLARANT:

THE PLAZA RESIDENCES, LLLP,
an Arizona limited liability limited partnership

By: PCD General Partner, Inc., an Arizona
corporation, its General Partner

By: 

Calum DeSouza
Its: Secretary/Treasurer

STATE OF ARIZONA)
) ss.
 County of Maricopa)

The foregoing instrument was acknowledged before me this 27th day of January, 2006, by Calum DeSouza, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument, and acknowledged himself to be the Secretary/Treasurer of PCD General Partner, Inc., an Arizona corporation, the General Partner of THE PLAZA RESIDENCES, LLLP, an Arizona limited liability limited partnership, on behalf of the corporation for and on behalf of said limited liability limited partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Angela D. Wellman
 Notary Public

My Commission Expires:

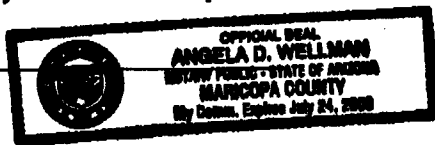


EXHIBIT B

Percentage Interest

Unit Number	Unit Type Name	Unit SF	% Interest
1001	San Francisco	1194	0.376912975403%
1002	Los Angeles	1123	0.354500227284%
1003	Los Angeles	1123	0.354500227284%
1004	San Francisco	1194	0.376912975403%
1005	Boston	691	0.218129703520%
1006	Chicago	767	0.242120814183%
1007	Chicago	767	0.242120814183%
1008	Boston	691	0.218129703520%
1009	Boston	691	0.218129703520%
1010	Chicago	767	0.242120814183%
1011	Chicago	767	0.242120814183%
1012	Boston	691	0.218129703520%
1013	Boston	691	0.218129703520%
1014	Chicago	767	0.242120814183%
1015	Chicago	767	0.242120814183%
1016	Boston	691	0.218129703520%
1017	Boston	691	0.218129703520%
1018	Chicago	767	0.242120814183%
1019	Chicago	767	0.242120814183%
1020	Boston	691	0.218129703520%
1021	Boston	691	0.218129703520%
1022	Chicago	767	0.242120814183%
1023	Chicago	767	0.242120814183%
1024	Boston	691	0.218129703520%
1025	Boston	691	0.218129703520%
1026	Chicago	767	0.242120814183%
1027	Chicago	767	0.242120814183%
1028	Boston	691	0.218129703520%
1029	San Francisco	1194	0.376912975403%
1030	Los Angeles	1123	0.354500227284%
1031	Los Angeles	1123	0.354500227284%
1032	San Francisco	1194	0.376912975403%
1033	Boston	691	0.218129703520%
1034	Chicago	767	0.242120814183%
1035	Chicago	767	0.242120814183%
1036	Boston	691	0.218129703520%
1037	Boston	691	0.218129703520%
1038	Chicago	767	0.242120814183%
1039	Chicago	767	0.242120814183%
1040	Boston	691	0.218129703520%
1041	New York	969	0.305886660942%
1042	New York	969	0.305886660942%
1043	New York	969	0.305886660942%
1044	New York	969	0.305886660942%
1045	New York	969	0.305886660942%
1046	New York	969	0.305886660942%
1047	New York	969	0.305886660942%
1048	New York	969	0.305886660942%

EXHIBIT B

Percentage Interest

1049	Boston	691	0.218129703520%
1050	Chicago	767	0.242120814183%
1051	Chicago	767	0.242120814183%
1052	Boston	691	0.218129703520%
1053	Boston	691	0.218129703520%
1054	Chicago	767	0.242120814183%
1055	Chicago	767	0.242120814183%
1056	Boston	691	0.218129703520%
1057	San Francisco	1194	0.376912975403%
1058	Los Angeles	1123	0.354500227284%
1059	Los Angeles	1123	0.354500227284%
1060	San Francisco	1194	0.376912975403%
1061	Boston	691	0.218129703520%
1062	Chicago	767	0.242120814183%
1063	Chicago	767	0.242120814183%
1064	Boston	691	0.218129703520%
1065	Boston	691	0.218129703520%
1066	Chicago	767	0.242120814183%
1067	Chicago	767	0.242120814183%
1068	Boston	691	0.218129703520%
1069	Boston	691	0.218129703520%
1070	Chicago	767	0.242120814183%
1071	Chicago	767	0.242120814183%
1072	Boston	691	0.218129703520%
1073	Boston	691	0.218129703520%
1074	Chicago	767	0.242120814183%
1075	Chicago	767	0.242120814183%
1076	Boston	691	0.218129703520%
1077	New York	969	0.305886660942%
1078	Miami	1085	0.342504671953%
1079	Miami	1085	0.342504671953%
1080	New York	969	0.305886660942%
1081	New York	969	0.305886660942%
1082	Miami	1085	0.342504671953%
1083	Miami	1085	0.342504671953%
1084	New York	969	0.305886660942%
1085	San Francisco	1194	0.376912975403%
1086	Los Angeles	1123	0.354500227284%
1087	Los Angeles	1123	0.354500227284%
1088	San Francisco	1194	0.376912975403%
1089	Boston	691	0.218129703520%
1090	Chicago	767	0.242120814183%
1091	Chicago	767	0.242120814183%
1092	Boston	691	0.218129703520%
1093	Boston	691	0.218129703520%
1094	Chicago	767	0.242120814183%
1095	Chicago	767	0.242120814183%
1096	Boston	691	0.218129703520%
1097	San Francisco	1194	0.376912975403%
1098	Los Angeles	1123	0.354500227284%

EXHIBIT B

Percentage Interest

1099	Los Angeles	1123	0.354500227284%
1100	Los Angeles	1123	0.354500227284%
1101	Los Angeles	1123	0.354500227284%
1102	San Francisco	1184	0.376912975403%
1103	New York	989	0.305886660942%
1104	New York	989	0.305886660942%
1105	New York	989	0.305886660942%
1106	New York	989	0.305886660942%
1107	New York	989	0.305886660942%
1108	New York	989	0.305886660942%
1109	New York	989	0.305886660942%
1110	New York	989	0.305886660942%
1111	San Francisco	1184	0.376912975403%
1112	Los Angeles	1123	0.354500227284%
1113	Los Angeles	1123	0.354500227284%
1114	San Francisco	1184	0.376912975403%
1115	New York	989	0.305886660942%
1116	Miami	1085	0.342504671953%
1117	Miami	1085	0.342504671953%
1118	New York	989	0.305886660942%
1119	New York	989	0.305886660942%
1120	Miami	1085	0.342504671953%
1121	Miami	1085	0.342504671953%
1122	New York	989	0.305886660942%
1123	Boston	691	0.218129703520%
1124	Chicago	787	0.242120814183%
1125	Chicago	787	0.242120814183%
1126	Boston	691	0.218129703520%
1127	Boston	691	0.218129703520%
1128	Chicago	787	0.242120814183%
1129	Chicago	787	0.242120814183%
1130	Boston	691	0.218129703520%
1131	San Francisco	1184	0.376912975403%
1132	Los Angeles	1123	0.354500227284%
1133	Los Angeles	1123	0.354500227284%
1134	San Francisco	1184	0.376912975403%
1135	New York	989	0.305886660942%
1136	Miami	1085	0.342504671953%
1137	Miami	1085	0.342504671953%
1138	New York	989	0.305886660942%
1139	New York	989	0.305886660942%
1140	Miami	1085	0.342504671953%
1141	Miami	1085	0.342504671953%
1142	New York	989	0.305886660942%
1143	New York	989	0.305886660942%
1144	New York	989	0.305886660942%
1145	New York	989	0.305886660942%
1146	New York	989	0.305886660942%
1147	New York	989	0.305886660942%
1148	New York	989	0.305886660942%

EXHIBIT B

Percentage Interest

1149	New York	969	0.305886680942%
1150	New York	969	0.305886680942%
1151	San Francisco	1194	0.376912975403%
1152	Los Angeles	1123	0.354500227284%
1153	Los Angeles	1123	0.354500227284%
1154	San Francisco	1194	0.376912975403%
1155	Boston	691	0.218129703520%
1156	Chicago	767	0.242120814183%
1157	Chicago	767	0.242120814183%
1158	Boston	691	0.218129703520%
1159	Boston	691	0.218129703520%
1160	Chicago	767	0.242120814183%
1161	Chicago	767	0.242120814183%
1162	Boston	691	0.218129703520%
1163	San Francisco	1194	0.376912975403%
1164	Los Angeles	1123	0.354500227284%
1165	Los Angeles	1123	0.354500227284%
1166	San Francisco	1194	0.376912975403%
1167	New York	969	0.305886680942%
1168	Miami	1085	0.342504671953%
1169	Miami	1085	0.342504671953%
1170	New York	969	0.305886680942%
1171	New York	969	0.305886680942%
1172	Miami	1085	0.342504671953%
1173	Miami	1085	0.342504671953%
1174	New York	969	0.305886680942%
2001	San Francisco	1194	0.376912975403%
2002	Los Angeles	1123	0.354500227284%
2003	Los Angeles	1123	0.354500227284%
2004	San Francisco	1194	0.376912975403%
2005	Boston	691	0.218129703520%
2006	Chicago	767	0.242120814183%
2007	Chicago	767	0.242120814183%
2008	Boston	691	0.218129703520%
2009	Boston	691	0.218129703520%
2010	Chicago	767	0.242120814183%
2011	Chicago	767	0.242120814183%
2012	Boston	691	0.218129703520%
2013	Boston	691	0.218129703520%
2014	Chicago	767	0.242120814183%
2015	Chicago	767	0.242120814183%
2016	Boston	691	0.218129703520%
2017	Boston	691	0.218129703520%
2018	Chicago	767	0.242120814183%
2019	Chicago	767	0.242120814183%
2020	Boston	691	0.218129703520%
2021	Boston	691	0.218129703520%
2022	Chicago	767	0.242120814183%
2023	Chicago	767	0.242120814183%
2024	Boston	691	0.218129703520%

EXHIBIT B

Percentage Interest

2025	Boston	691	0.218129703520%
2026	Chicago	767	0.242120814183%
2027	Chicago	767	0.242120814183%
2028	Boston	691	0.218129703520%
2029	San Francisco	1194	0.376912975403%
2030	Los Angeles	1123	0.354500227284%
2031	Los Angeles	1123	0.354500227284%
2032	San Francisco	1194	0.376912975403%
2033	Boston	691	0.218129703520%
2034	Chicago	767	0.242120814183%
2035	Chicago	767	0.242120814183%
2036	Boston	691	0.218129703520%
2037	Boston	691	0.218129703520%
2038	Chicago	767	0.242120814183%
2039	Chicago	767	0.242120814183%
2040	Boston	691	0.218129703520%
2041	New York	969	0.305886660942%
2042	New York	969	0.305886660942%
2043	New York	969	0.305886660942%
2044	New York	969	0.305886660942%
2045	New York	969	0.305886660942%
2046	New York	969	0.305886660942%
2047	New York	969	0.305886660942%
2048	New York	969	0.305886660942%
2049	Boston	691	0.218129703520%
2050	Chicago	767	0.242120814183%
2051	Chicago	767	0.242120814183%
2052	Boston	691	0.218129703520%
2053	Boston	691	0.218129703520%
2054	Chicago	767	0.242120814183%
2055	Chicago	767	0.242120814183%
2056	Boston	691	0.218129703520%
2057	San Francisco	1194	0.376912975403%
2058	Los Angeles	1123	0.354500227284%
2059	Los Angeles	1123	0.354500227284%
2060	San Francisco	1194	0.376912975403%
2061	Boston	691	0.218129703520%
2062	Chicago	767	0.242120814183%
2063	Chicago	767	0.242120814183%
2064	Boston	691	0.218129703520%
2065	Boston	691	0.218129703520%
2066	Chicago	767	0.242120814183%
2067	Chicago	767	0.242120814183%
2068	Boston	691	0.218129703520%
2069	Boston	691	0.218129703520%
2070	Chicago	767	0.242120814183%
2071	Chicago	767	0.242120814183%
2072	Boston	691	0.218129703520%
2073	Boston	691	0.218129703520%
2074	Chicago	767	0.242120814183%

EXHIBIT B

Percentage Interest

2075	Chicago	767	0.242120814183%
2076	Boston	691	0.218129703520%
2077	New York	969	0.305886660942%
2078	Miami	1085	0.342504671953%
2079	Miami	1085	0.342504671953%
2080	New York	969	0.305886660942%
2081	New York	969	0.305886660942%
2082	Miami	1085	0.342504671953%
2083	Miami	1085	0.342504671953%
2084	New York	969	0.305886660942%
2085	San Francisco	1194	0.376912975403%
2086	Los Angeles	1123	0.354500227284%
2087	Los Angeles	1123	0.354500227284%
2088	San Francisco	1194	0.376912975403%
2089	Boston	691	0.218129703520%
2090	Chicago	767	0.242120814183%
2091	Chicago	767	0.242120814183%
2092	Boston	691	0.218129703520%
2093	Boston	691	0.218129703520%
2094	Chicago	767	0.242120814183%
2095	Chicago	767	0.242120814183%
2096	Boston	691	0.218129703520%
2097	San Francisco	1194	0.376912975403%
2098	Los Angeles	1123	0.354500227284%
2099	Los Angeles	1123	0.354500227284%
2100	Los Angeles	1123	0.354500227284%
2101	Los Angeles	1123	0.354500227284%
2102	San Francisco	1194	0.376912975403%
2103	New York	969	0.305886660942%
2104	New York	969	0.305886660942%
2105	New York	969	0.305886660942%
2106	New York	969	0.305886660942%
2107	New York	969	0.305886660942%
2108	New York	969	0.305886660942%
2109	New York	969	0.305886660942%
2110	New York	969	0.305886660942%
2111	San Francisco	1194	0.376912975403%
2112	Los Angeles	1123	0.354500227284%
2113	Los Angeles	1123	0.354500227284%
2114	San Francisco	1194	0.376912975403%
2115	New York	969	0.305886660942%
2116	Miami	1085	0.342504671953%
2117	Miami	1085	0.342504671953%
2118	New York	969	0.305886660942%
2119	New York	969	0.305886660942%
2120	Miami	1085	0.342504671953%
2121	Miami	1085	0.342504671953%
2122	New York	969	0.305886660942%
2123	Boston	691	0.218129703520%
2124	Chicago	767	0.242120814183%

EXHIBIT B

Percentage Interest

2125	Chicago	767	0.242120814183%
2126	Boston	691	0.218129703520%
2127	Boston	691	0.218129703520%
2128	Chicago	767	0.242120814183%
2129	Chicago	767	0.242120814183%
2130	Boston	691	0.218129703520%
2131	San Francisco	1194	0.376912975403%
2132	Los Angeles	1123	0.354500227284%
2133	Los Angeles	1123	0.354500227284%
2134	San Francisco	1194	0.376912975403%
2135	New York	969	0.305886660942%
2136	Miami	1085	0.342504671953%
2137	Miami	1085	0.342504671953%
2138	New York	969	0.305886660942%
2139	New York	969	0.305886660942%
2140	Miami	1085	0.342504671953%
2141	Miami	1085	0.342504671953%
2142	New York	969	0.305886660942%
2143	New York	969	0.305886660942%
2144	New York	969	0.305886660942%
2145	New York	969	0.305886660942%
2146	New York	969	0.305886660942%
2147	New York	969	0.305886660942%
2148	New York	969	0.305886660942%
2149	New York	969	0.305886660942%
2150	New York	969	0.305886660942%
2151	San Francisco	1194	0.376912975403%
2152	Los Angeles	1123	0.354500227284%
2153	Los Angeles	1123	0.354500227284%
2154	San Francisco	1194	0.376912975403%
2155	Boston	691	0.218129703520%
2156	Chicago	767	0.242120814183%
2157	Chicago	767	0.242120814183%
2158	Boston	691	0.218129703520%
2159	Boston	691	0.218129703520%
2160	Chicago	767	0.242120814183%
2161	Chicago	767	0.242120814183%
2162	Boston	691	0.218129703520%
2163	San Francisco	1194	0.376912975403%
2164	Los Angeles	1123	0.354500227284%
2165	Los Angeles	1123	0.354500227284%
2166	San Francisco	1194	0.376912975403%
2167	New York	969	0.305886660942%
2168	Miami	1085	0.342504671953%
2169	Miami	1085	0.342504671953%
2170	New York	969	0.305886660942%
2171	New York	969	0.305886660942%
2172	Miami	1085	0.342504671953%
2173	Miami	1085	0.342504671953%
2174	New York	969	0.305886660942%

EXHIBIT B

Percentage Interest

	348				316784		100.00000000000000%	
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EXHIBIT "A"

UNITS 1001 THROUGH 1174 INCLUSIVE AND UNITS 2001 THROUGH 2174 INCLUSIVE, OF "THE PLAZA RESIDENCES, A CONDOMINIUM", A CONDOMINIUM AS CREATED BY THAT CERTAIN DECLARATION RECORDED DECEMBER 15, 2005 AS 2005-1896305 OF OFFICIAL RECORDS, AND SHOWN ON THE PLAT OF SAID CONDOMINIUM AS RECORDED IN BOOK 796 OF MAPS, PAGE 20, IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA.

WHEN RECORDED, RETURN TO:

James F. Byrne, Jr., Esq.
Byrne & Shaw, PLLC
2111 E. Highland Ave., #215
Phoenix, Arizona 85016

SR

The Talon Group

**SECOND AMENDMENT TO
CONDOMINIUM DECLARATION AND DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

FOR

THE PLAZA RESIDENCES, A CONDOMINIUM

February 6, 2006

**SECOND AMENDMENT TO
CONDOMINIUM DECLARATION
AND
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE PLAZA RESIDENCES, A CONDOMINIUM**

THIS SECOND AMENDMENT TO CONDOMINIUM DECLARATION AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION FOR THE PLAZA RESIDENCES, A CONDOMINIUM (this "**Second Amendment**"), is made as of the 6th day of February, 2006, by The Plaza Residences, LLLP, an Arizona limited liability limited partnership (the "**Declarant**").

RECITALS:

A. Declarant caused the Condominium Declaration and Declaration of Covenants, Conditions and Restrictions for The Plaza Residences, A Condominium (the "**Declaration**") to be recorded at Recording No. 2005-1896305, in the records of the County Recorder of County of Maricopa, Arizona, submitting certain real property described in the Declaration to the Condominium pursuant to the Arizona Condominium Act, A.R.S. § 33-1201, et. seq.

B. Declarant caused the First Amendment to Condominium Declaration and Declaration of Covenants, Conditions and Restrictions for The Plaza Residences, A Condominium to be recorded at Recording No. 2006-0128129 in the records of the County Recorder of Maricopa County, Arizona.

C. Unless otherwise defined in this Second Amendment, each capitalized term used in this Second Amendment shall have the meaning given to such term in the Declaration.

D. Section 10.6(A) of the Declaration provides that the Declarant, as the owner of more than 100% of the votes of the Association, has a right to amend the Declaration.

AMENDMENTS:

NOW, THEREFORE, the Declarant amends the Declaration as follows:

1. The word "Declaration" after the words "NOW, THEREFORE," is hereby changed to "Declarant".

2. Paragraph 7 of the First Amendment is hereby deleted in its entirety and the following is hereby inserted in its place and stead:

“7. The following is hereby inserted after the word “Declaration” in the fifth line of Section 7.3(A) of the Declaration: “(i.e., based on the Unit’s percentage interest set forth on Exhibit “B” attached hereto)””.


3. Except as amended by this Second Amendment, the Declaration shall remain unchanged and in full force and effect. In the event of any conflict or inconsistency between the provisions of this Second Amendment and the Declaration, this Second Amendment shall control.

IN WITNESS WHEREOF, Declarant has executed this Second Amendment as of the day and year first above written.

DECLARANT:

THE PLAZA RESIDENCES, LLLP,
an Arizona limited liability limited partnership

By: PCD General Partner, Inc., an Arizona
corporation, its General Partner

By: 

Calum DeSouza
Its: Secretary/Treasurer

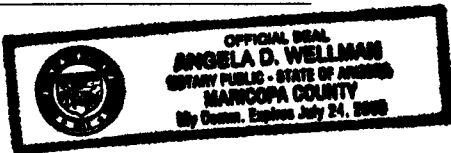
STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 6th day of February, 2006, by Calum DeSouza, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument, and acknowledged himself to be the Secretary/Treasurer of PCD General Partner, Inc., an Arizona corporation, the General Partner of THE PLAZA RESIDENCES, LLLP, an Arizona limited liability limited partnership, on behalf of the corporation for and on behalf of said limited liability limited partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Angela D. Wellman
Notary Public

My Commission Expires: _____



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
20070609279 05/25/2007 09:24
4595770-4-1-1-
ELECTRONIC RECORDING

WHEN RECORDED, RETURN TO:

The Plaza Residences, LLLP
7009 E. Acoma Dr., #1004
Scottsdale, Arizona 85254

The Talon Group

**THIRD AMENDMENT
TO
CONDOMINIUM DECLARATION AND DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
THE PLAZA RESIDENCES, A CONDOMINIUM**

May 24, 2007

**THIRD AMENDMENT
TO
CONDOMINIUM DECLARATION AND
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE PLAZA RESIDENCES, A CONDOMINIUM**

THIS THIRD AMENDMENT TO CONDOMINIUM DECLARATION AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION FOR THE PLAZA RESIDENCES, A CONDOMINIUM (this "**Third Amendment**"), is made as of the 24th day of May, 2007, by The Plaza Residences, LLLP, an Arizona limited liability limited partnership (the "**Declarant**").

RECITALS:

A. Declarant caused the Condominium Declaration and Declaration of Covenants, Conditions and Restrictions for The Plaza Residences, A Condominium (the "**Declaration**") to be recorded at Recorder's No. 2005-1896308, in the records of the County Recorder of Maricopa County, Arizona, submitting certain real property described in the Declaration to a Condominium pursuant to the Arizona Condominium Act, A.R.S. § 33-1201, *et. seq.*

B. Declarant caused the Declaration to be amended by that certain First Amendment to Condominium Declaration and Declaration of Covenants, Conditions and Restrictions for The Plaza Residences, A Condominium recorded at Recorder's No. 2006-0128129, in the records of the County Recorder of Maricopa County, Arizona (the "First Amendment"), and by that certain Second Amendment to Condominium Declaration and Declaration of Covenants, Conditions and Restrictions for The Plaza Residences, A Condominium recorded at Recorder's No. 2006-0182703, in the records of the County Recorder of Maricopa County, Arizona (the "Second Amendment").

C. Hereinafter, the Declaration as amended by the First Amendment and the Second Amendment, is collectively referred to herein as the "Declaration".

D. Unless otherwise defined in this Third Amendment, each capitalized term used in this Third Amendment shall have the meaning given to such term in the Declaration.

E. Pursuant to Section 10.6(E) of the Declaration, the Declarant has the right to amend the Declaration.

AMENDMENTS:

NOW, THEREFORE, the Declarant hereby amends the Declaration, in part, as follows:

1. The last sentence of Section 4.14 of the Declaration and the restriction on Unit resales set forth in Section 4.20 of the Declaration shall not apply to First Mortgagees.
2. Except as amended by this Third Amendment, the Declaration shall remain unchanged and in full force and effect. In the event of any conflict or inconsistency between the provisions of this Third Amendment and the Declaration, this Third Amendment shall control.

IN WITNESS WHEREOF, Declarant has executed this Third Amendment as of the day and year first above written.

DECLARANT:

THE PLAZA RESIDENCES, LLLP,
an Arizona limited liability limited partnership

By: PCD General Partner, Inc., an Arizona
corporation, its General Partner

By: 

Calum DeSouza
Its: Secretary/Treasurer

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 24th day of May, 2007, by Calum DeSouza, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument, and acknowledged himself to be the Secretary/Treasurer of PCD General Partner, Inc., an Arizona corporation, the General Partner of THE PLAZA RESIDENCES, LLLP, an Arizona limited liability limited partnership, on behalf of the corporation for and on behalf of said limited liability limited partnership.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Angela D. Sutton
Notary Public
Angela D. Wellman

My Commission Expires:

July 24, 2008

