

When recorded, return to:

**Avenue 67, LLC
Post Office Box 4150
Mesa, Arizona 85211**

**FINAL AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM AND OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
LA ESTRELLA VISTA CONDOMINIUMS**

DISCLOSURE: THIS DECLARATION AND THE CONDOMINIUM DOCUMENTS DESCRIBED IN THIS DECLARATION CONTAIN ALTERNATIVE DISPUTE RESOLUTION PROCEDURES THAT ARE APPLICABLE TO CLAIMS AND DISPUTES ARISING OUT OF OR UNDER THE DECLARATION AND OTHER CONDOMINIUM DOCUMENTS.

**FINAL AMEDED AND RESTATED
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THIS FINAL AMEDED AND RESTATED DECLARATION OF CONDOMINIUM AND OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LA ESTRELLA VISTA CONDOMINIUMS is made this ____ day of _____, 2007, by Avenue 67, LLC, an Arizona limited liability company (the “Declarant”) and supersedes and replaces all prior recorded declarations, including but not limited to those recorded at Recorders Number 2006-0726242, Records of the Maricopa County Recorder, Phoenix, Arizona..

OVERVIEW

A. Declarant is the owner of the real property described on Exhibit “A” attached to and incorporated in this Declaration by this reference. The real property is located in the City of Phoenix, County of Maricopa, State of Arizona.

B. Declarant desires to establish and sell a residential rental condominium project consisting of Condominium Units, Limited Common Elements, Common Elements, and other facilities, all as more fully described in this Declaration.

C. Declarant intends that this Declaration and the other Condominium Documents will facilitate a general plan for the sale, ownership, and operation of the Property as a residential condominium project.

D. These FINAL AMENDED AND RESTATED DECLARATION OF CONDOMINIUM AND OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LA ESTRELLA VISTA CONDOMINIUMS supersede and replace all other and prior declarations, covenants, conditions and restrictions whatsoever pertaining to the Property.

DECLARATION AND GRANT

Accordingly, Declarant declares that the Units, Common Elements, and Limited Common Elements described in this Declaration as the Project will be held, sold, mortgaged, encumbered, leased, rented, used, occupied, improved, and conveyed subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, conditions, charges, and liens (sometimes collectively referred to as “covenants and restrictions”). The covenants and restrictions are for the purpose of protecting the value, attractiveness, and desirability of the Property, and the covenants and restrictions will benefit, burden, and run with the title to the Property and will be binding upon all parties having any right, title, or interest in or to any part of the Property and their heirs, successors, and assigns. The covenants and restrictions will inure to the benefit of each Owner. The Declarant further declares as follows:

ARTICLE 1

1. DEFINITIONS

1.1. General Definitions. Capitalized terms not otherwise defined in this Declaration shall have the meanings specified for such terms in the Arizona Condominium Act, A.R.S. §§33-1201, *et seq.*, as the same may be amended from time to time (the “Condominium Act”).

1.2. Defined Terms. The following capitalized terms shall have the general meanings described in the Condominium Act and for purposes of this Declaration shall have the specific meanings set forth below:

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

1.2.2. “Assessments” means the Common Expense Assessment, Special Assessments, and all other charges, fees, monetary penalties or fines levied and assessed against Units pursuant to this Declaration, including but not limited to those in Article 7.

1.2.3. “Assessment Lien” means the lien granted to the Association by A.R.S. § 33-1256 of the Condominium Act and the lien created hereunder to secure the payment of Assessments, including monetary penalties and other charges owed to the Association by a Unit Owner.

1.2.4. “Association” means the Arizona nonprofit corporation organized by the Declarant under A.R.S. § 33-1241 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, “La Estrella Vista Condominium Association, Inc.”, but if such name is not available, the Declarant may organize the Association under such other name as the Declarant deems appropriate.

1.2.5. “Board” means the Board of Directors of the Association.

1.2.6. “Building” means any structure designated as a building on the Plat and containing a Unit or Units.

1.2.7. “Bylaws” means the Bylaws of the Association, as they may be amended from time to time.

1.2.8. “Common Elements” means all portions of the Condominium other than Units. The Limited Common Elements are considered part of the Common Elements for all purposes except those described in this Declaration and the other Condominium Documents.

1.2.9. “Common Expenses” means expenditures made by, or financial liabilities of the Association, together with required allocations to reserves.

1.2.10. “Common Expense Assessment” means the assessment levied against the Units pursuant to Section 7.2.1 of this Declaration.

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

1.2.12. “Condominium” means the real property located in Maricopa County, Arizona, which is described in Exhibit A attached to this Declaration and on the Plat, together with all Buildings and other Improvements located thereon and all easements, rights, and appurtenances belonging thereto. The name of the Condominium created by this Declaration is “La Estrella Vista Condominiums.”

1.2.13. “Condominium Documents” means this Declaration, including the Plat, and the Articles, Bylaws, and Rules.

1.2.14. “Declarant” means Avenue 67, LLC, an Arizona limited liability company, and its successors and any Person to whom it may transfer any Special Declarant Right as provided by statute.

1.2.15. “Declaration” means this Declaration of Condominium and of Covenants, Conditions and Restrictions for La Estrella Vista Condominiums, as it may be amended from time to time, together with the exhibits, and where appropriate by context, the Plat.

1.2.16. “Designated Parking” means those parking spaces which are part of a the Common Elements, but have been assigned by the Association to the individual Units.

1.2.17. “Development Rights” means any right or combination of rights reserved by or granted to the Declarant in this Declaration to do any of the following regardless of the Plat:

1.2.17.1. Create easements, Units, Common Elements or Limited Common Elements within the Condominium;

1.2.17.2. Amend the Condominium Documents during the Period of Declarant Control to comply with applicable law or to correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner;

1.2.17.3. Amend the Condominium Documents during the Period of Declarant Control as provided in Sections 13.5.4 or 13.5.5 below;

1.2.17.4. Convert Common Elements to Limited Common Elements and visa-versa;

1.2.17.5. Convert Common Elements to Units and visa-versa;

1.2.17.6. Convert Limited Common Elements to Units and visa-versa;

1.2.17.7. Subdivide or change the boundaries of Units; and

1.2.17.8. Any other development rights granted to Declarant under the Condominium Act.

1.2.18. “Eligible Insurer or Guarantor” means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters in accordance with Section 11.1 of this Declaration.

1.2.19. “Eligible Mortgage Holder” means a First Mortgagee who has requested notice of certain matters from the Association in accordance with Section 11.1 of this Declaration.

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

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

1.2.22. “Identifying Number” means the number assigned to a Unit on the Plat.

1.2.23. “Improvement” means all physical structures located on the Project, roads, parking areas, entry and exit gates, parking canopies, driveways, fences, screen walls, privacy gates, recreational amenities (including pool, gazebo, barbeques an the like), trash receptacles, cluster mailboxes, signage, landscaped areas, trees, hedges, plantings, irrigation systems, all Buildings, including Units, and any other structure of any type, kind or nature.

1.2.24. “Invitee” means any person whose presence within the Condominium is approved by or is at the request of a particular Owner, Lessee, or Resident, including, without limitation, family members, guests, employees and contractors.

1.2.25. “Lessee” means a third-party lessee, sub-lessee, tenant or subtenant under a lease, oral or written, of any Rental Unit. As used herein, a “third-party” is any Person who is not an Owner or the Declarant.

1.2.26. “Limited Common Elements” means a portion of the Common Elements specifically designated in this Declaration or on the Plat as a Limited Common Element, and any other element 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.

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

1.2.28. “Period of Declarant Control” means the time period commencing on the date this Declaration is recorded in the Official Records of the Maricopa County, Arizona Recorder, and ending on the earlier of:

1.2.28.1. Ninety (90) days after the conveyance of seventy-five percent (75%) of the Units which may be created in the Condominium to Unit Owners other than the Declarant; or

1.2.28.2. Four (4) years after all Declarants have ceased to offer Units for sale in the ordinary course of business.

1.2.29. “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. In the case of a subdivision trust, as defined in A.R.S. § 6-801, “person” means the beneficiary of the trust who holds the right to subdivide, develop or sell the real estate rather than the trust or trustee.

1.2.30. “Plat” means the Condominium Plat for La Estrella Vista Condominiums, recorded in Book 939 of Maps, page 40, MCR No. 2007-0887472, Official Records of the Maricopa County, Arizona Recorder, and any amendments, supplements, or corrections thereto.

1.2.31. “Project” or “Property” means all of the real property described on Exhibit “A” to this Declaration and which has been platted by the Plat, and includes the Buildings, Units, Common Elements, and Limited Common Elements.

1.2.32. “Purchaser” means any Person, other than the Declarant, who by means of a voluntary transfer becomes a Unit Owner, except for a Person who, in addition to purchasing a Unit, is assigned any Special Declarant Right.

1.2.33. “Rental Unit” means a portion of a four-plex building designed and intended for use and occupancy as a separate residence. Each Unit is

to have four (4) individual and separate residences, which may be rented independently and occupied independently.

1.2.34. “Resident” means any Person who occupies a Rental Unit.

1.2.35. “Rules” means the rules and regulations adopted by the Board on behalf of the Association, as they may be amended from time to time.

1.2.36. “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, who maintain a common household in a Rental Unit.

1.2.37. “Special Declarant Rights” means any right or combination of rights reserved by or granted to the Declarant in this Declaration or by the Condominium Act to do any of the following:

1.2.37.1. Construct Improvements provided for in this Declaration or shown on the Plat;

1.2.37.2. Exercise any Development Right;

1.2.37.3. Maintain sales offices, management offices, model Units and signs advertising the Condominium;

1.2.37.4. Use easements through the Common Elements for the purpose of making Improvements within the Condominium; and

1.2.37.5. Appoint or remove any officer of the Association or any member of the Board of Directors during the Period of Declarant Control.

1.2.38. “Unit” means a portion of the Condominium as described in this Declaration and as shown on the Plat that is designated for separate ownership and occupancy.

1.2.39. “Unit Owner” or “Owner” means the record owner, 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 (a) Persons having an interest in a Unit merely as security for the performance of an obligation, or (b) a lessee or tenant of a Rental

Unit or 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. The term "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 Units, the fee simple title to which is vested in a trustee pursuant to A.R.S., §§33-801, *et seq.*, the Trustor shall be deemed to be the Unit Owner.

ARTICLE 2

2. SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES

2.1. Submission of Property. The real property described on Exhibit A attached to this Declaration and on the Plat, together with all Improvements, easements, rights and appurtenances thereto, is hereby submitted to a condominium in accordance with the provisions of the Condominium Act. The property shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration. The Identifying Number of the Units submitted to the Condominium are those Units consecutively numbered 1 through 25, as shown on the Plat, and excluding Building 14, which is part of the Common Elements.

2.2. Unit Boundaries.

The vertical boundaries of each Unit are vertical planes extending upward and downwards from the interior surface of the exterior walls that are located approximately on the outward boundary lines of the Unit as shown on the Plat. There are no horizontal boundaries.

2.2.1. If any chute, flue, duct, wire, conduit, pipe, bearing wall, bearing column, water heater, 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 but not all of the Units can be declared a Limited Common Element at the discretion of the Board, and any portion serving more than one Unit and any portion of the Common Elements is a part of the Common Elements, unless otherwise designated by the Board in its sole and absolute discretion.

2.2.2. Subject to the provisions of Subsection 2.2.1 above, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are part of the Unit.

2.2.3. In the event of an inconsistency or conflict between the provisions of this Section 2.2 and the Plat, this Section 2.2 shall control.

2.2.4. The physical boundaries of a Unit shall be considered to be the proper reference for purposes of determining the boundaries regardless of the settling, rising or lateral movement of the Buildings and regardless of any variances between the boundaries shown on the Plat and the actual physical boundaries.

2.3. Allocation of Common Element Interest. The undivided interests in the Common Elements of the Association shall be allocated equally among the Units. Accordingly, each Unit's percentage interest in the Common Elements shall be one/twenty-fourth (1/24th).

2.3.1. The fraction of undivided 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 fractions of undivided interest.

2.3.2. Ownership of a Unit shall not be conveyed separate from the fraction of undivided interest in the Common Elements allocated to the Unit. The undivided fraction of interest in the Common Elements allocated to any Unit shall always be deemed conveyed or encumbered with any conveyance or encumbrance of that Unit, even though the legal description in the instrument conveying or encumbering the Unit may refer only to the fee title to the Unit.

2.3.3. Except as permitted by the Condominium Act, the Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an

undivided interest in the Common elements made without the Unit to which that interest is allocated is void.

2.4. Allocation of Common Expense Liabilities. The undivided interest in the Common Expense Liability of the Association shall be allocated equally among the Units, with each Unit responsible for one/twenty-fourth (1/24th) of the Common Expense Liability.

2.5. Allocation of Votes in the Association. Except as otherwise set forth herein for the Declarant, the votes in the Association shall be allocated equally among all the Units with each Unit having one (1) vote. An Owner's voting rights are subject to suspension as provided in the Condominium Documents if the Owner violates the Condominium Documents.

2.6. Allocation of Limited Common Elements for all Units.

2.6.1. Limited Common Element Interests shall be allocated as shown on the Plat, and in the absence of designation on the Plat, the following portions of the Common Elements are Limited Common Elements and are allocated to the exclusive use of one Unit as follows:

2.6.1.1. Any electric or water meter which serves only one Unit is allocated to the Unit it serves.

2.6.1.2. Any water heater, heating or air conditioning unit which serves only one Unit is allocated to the Unit it serves.

2.6.1.3. Each Unit is allocated those portions of the Common Elements designated as Limited Common Elements in Section 2 and 2.2.1 of this Declaration that serve the Unit.

2.6.2. A Limited Common Element may be reallocated by an amendment to this Declaration made in accordance with the provisions of A.R.S. § 33-1218(B) of the Condominium Act.

2.6.3. The Declarant or Board shall have the right, without a vote of the Members, to allocate as a Limited Common Element any portion of the Common Elements not previously allocated as a Limited Common Element. Any such allocation by the Board shall be made by an amendment to this Declaration and an amendment to the Plat if required by the Condominium Act.

2.6.4. Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements allocated to his Unit, subject to the rights granted to the Declarant or the Association by the Condominium Documents. All Limited Common Elements must be used in accordance with the Declaration and the Rules.

2.7. Allocation of Limited Common Element Expense Liabilities. To the extent not inconsistent with Section 2.6 above, any expense incurred by the Association in maintaining or repairing a Limited Common Element described in Section 2.6 shall be assessed exclusively against the Unit to which the Limited Common Element is allocated.

2.8. Changes to Civil and Working Drawings. The civil and building drawings, landscape plans and other construction documents prepared by Declarant's consultants in connection with the development, construction, and remodel of the Condominium and approved by the City were prepared for construction purposes only. Declarant, in its discretion, has the authority to make modifications and revisions to such plans and drawings which are consistent with applicable building codes and ordinances and are approved by the applicable governing authorities (if required by law). Declarant has no obligation to modify or revise such plans and drawings to reflect such Declarant changes, or otherwise prepare "as-built" drawings.

ARTICLE 3

3. EASEMENTS

3.1. Utility Easements. There is hereby granted an created an easement upon, across, over and under the Common Elements for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to gas, water, sewer, telephone, cable television or other communication lines and systems, and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility or service company, Association, or Declarant to remove, replace, install and maintain the necessary equipment on the Common Elements, but no sewers, electrical lines, water lines, gas lines, or other utility or service lines may be installed or located on the Common Elements except as initially designed, constructed and/or as thereafter approved and constructed by the Declarant or Board. This easement shall in no way affect any other recorded easements on the Common Elements.

3.2. Easements for Ingress and Egress. There is hereby granted and created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, 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, including, without limitation, emergency access and utility repair vehicles, 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 or Designated Parking Spaces. Such easements shall likewise not extend to any assigned parking spaces as the Board may so assign pursuant to Rules adopted hereafter. Such easements shall run in favor of and be for the benefit of the Unit Owners, Residents and Lessees of the Units and their guests, families, and invitees.

3.3. Unit Owners' Easements of Enjoyment.

3.3.1. Every Unit Owner shall have a right and easement of enjoyment in and to the Common Elements, except for the Limited Common Elements, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

3.3.1.1. The right of the Association to adopt reasonable Rules governing the use of the Common Elements, including assigning non-Designated Parking Spaces;

3.3.1.2. The right of the Association to suspend rights in accordance with the Condominium Documents;

3.3.1.3. 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, subject to the vote or written assent of those Unit Owners representing at eighty percent (80%) of the votes in the Association, and with the consent 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 Owner's Unit is through the Common Elements to be conveyed or mortgaged; and

3.3.1.4. All rights and easements set forth in this Declaration, including, but not limited to the rights and easements granted to the Declarant by Sections 3.4 and 3.5 of this Declaration.

3.3.2. If a Rental Unit is leased or rented, the Lessee and the members of his family residing with the Lessee shall have the right to use the Common Elements during the term of the lease.

3.3.3. The guests and Invitees of any Member or other Person entitled to use the Common Elements pursuant to Subsection 3.3.1 above or of any lessee who is entitled to use the Common Elements pursuant to Subsection 3.3.2 above may use the Common Elements provided they are accompanied by a Member, lessee or other Person entitled to use the Common Elements pursuant to Subsection 3.3.1 or 3.3.2 above. The Board 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 specific times.

3.3.4. A 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.

3.3.5. The provisions of this Section shall not apply to any of the Limited Common Elements that are allocated to one or more, but less than all, of the Units.

3.4. Declarant's Use for Sales and Leasing Purposes.

3.4.1. Declarant shall have the right and an easement to maintain sales offices, management offices, construction offices, model Units, and related facilities throughout the Condominium and to maintain one or more advertising, model and directional signs on the Common Elements while the Declarant is selling, preparing to sell, or otherwise marketing Units in the Condominium. Declarant reserves the right to place models, management offices, construction offices and sales offices in any Units owned by Declarant and on any portion of

the Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

3.4.2. Declarant may from time to time relocate model Units, management offices and sales offices to different locations within the Condominium.

3.4.3. So long as Declarant is marketing Units in the Condominium, Declarant shall have the right to reserve parking spaces in the Condominium not allocated as Limited Common Elements or otherwise assigned to particular Units for use by prospective Unit Purchasers, Declarant's employees and others engaged in sales, maintenance, construction or management activities.

3.4.4. The Declarant reserves the right to remove and retain all goods, personal property and equipment used in the sales, management, development and maintenance of the Condominium that has not been represented to be property of the Association, whether or not they have become fixtures.

3.4.5. The Unit Owners specifically acknowledge that the model Units may contain upgrades or different finishes than the actual Units and the Unit Owners specifically acknowledge that no representations are made regarding how a particular Unit will be finished in the interior by the existence of an upgrade or other Unit interior finish.

3.5. Declarant's Rights and Easements.

3.5.1. Declarant and its employees, agents, contractors and subcontractors 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 Buildings and Improvements as the Declarant may deem necessary and to use the Common Elements and any Units owned 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.

3.5.2. Declarant and its employees, agents, contractors and subcontractors shall have the right and an easement on, over and under those portions of the Common Elements not located within the Buildings for the purpose of maintaining and collecting drainage of surface, roof or storm water. The easement created by this Subsection expressly includes the right to cut any

trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

3.5.3. The Declarant and its employees, agents, contractors and subcontractors shall have an easement through the Units, including Units owned by Purchasers, at reasonable times and upon reasonable notice, for any access necessary to complete any warranty work or modifications or improvements to be performed or constructed by the Declarant.

3.5.4. The Declarant and its employees, agents, contractors and subcontractors shall have the right and an easement on, over, and through 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.

3.5.5. 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.

3.5.6. In the event of any conflict or inconsistency between this Section 3.5 and any other provision of the Condominium Documents, this Section 3.5 shall control and prevail over such other provisions. The rights of the Declarant set forth in this Section 3.5 shall be enforceable by injunction, by any other remedy available at law or in equity and/or by any means provided in this Declaration.

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

3.7. Common Elements Easements in Favor of Unit Owners. The Common Elements shall be subject to the following easements in favor of the Units benefited:

3.7.1. For the installation, repair, maintenance, use, removal or replacement of pipes, ducts, heating and air conditioning systems, water heater 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.

3.7.2. 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 adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not (a) unreasonably interfere with the common use of any part of the Common Elements, (b) adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building, and (c) the Common Elements are returned to the condition before the work by the Unit Owner.

3.7.3. For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit 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 the Building or impair or structurally weaken the Building.

3.7.4. For the maintenance of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit, but which encroach into any part of the Common Elements.

3.7.5. 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 under Section 5.2.2 of this Declaration.

3.8. Common Elements Easements in Favor of the Association. The Common Elements shall be subject to an easement in favor of the Association, its Board and officers and the agents, employees and independent contractors of the Association for the purpose of inspection, upkeep, maintenance, repair and replacement of the Common Elements.

3.9. Units and Limited Common Elements Easements in Favor of Association. The Units and the 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:

3.9.1. For inspection of the exterior 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.

3.9.2. For inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from the exterior of Units or Limited Common Elements.

3.9.3. 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.

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

3.9.5. For inspection, at reasonable times and upon reasonable notice to the Unit Owner, of the Units and the Limited Common Elements to verify that the provisions of the Condominium Documents are being complied with by the Unit Owners, their guests, Lessees, Residents, invitees and licensees.

3.10. Easements for Unintended Encroachments. To the extent that any Unit, Common Element, or Limited Common Element encroaches on any other Unit, Common Element, or Limited Common Element as a result of original construction, alteration or restoration authorized by this Declaration, settling or shifting, or any reason other than the intentional encroachment on the Common Elements or any Unit by a Unit Owner, a valid easement for the encroachment, and for the maintenance thereof, is hereby granted and created.

3.11. Easements for Utilities and Maintenance. On behalf of all Owners, the Association and/or Declarant may create and dedicate easements over the Common Elements: (a) for the benefit of all service providers for the installation, repair, replacement and maintenance of sanitary sewers, water, electric, gas and telephone lines and facilities, heating and air-conditioning facilities, cable telephone or master television antenna or satellite lines or cables,

and drainage facilities, and for ingress to and egress from the Condominium in connection therewith, and (b) for ingress to and egress from the Condominium for the benefit of all municipal, state and federal vehicles, including but not limited to, all emergency and service type vehicles as may be required from time to time to service the Condominium and the Owners, Lessees and Residents including, but not limited to, U.S. Mail distribution and collection and private or municipal refuse collection.

3.12. Gated Entrance/Exit; Release of Claims. The Declarant has constructed a gated entrance/exit for the Project in order to limit vehicular access and to provide some privacy for the Owners and Residents. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, acknowledges and agrees as follows:

3.12.1. Declarant makes no representations or warranties that any gated entrance/exit will provide any security and safety to Owners, Lessees, Residents and their families, invitees and licensees.

3.12.2. Any gated entrance or exit may restrict or delay entry into the Project by the police, fire department, ambulances and other emergency vehicles or personnel.

3.12.3. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, assumes the risk that any gated entrance may not provide security and safety and may restrict or delay entry into the Project by the police, fire department, ambulances and other emergency vehicles and personnel. Neither the Declarant, the Association nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Owner, Resident, Lessee or its family, invitees or licensees for any claims or damages resulting, directly or indirectly, from the construction, operation, existence or maintenance of the gated entrance/exit.

3.12.4. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, hereby releases the Declarant and the Association from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (including, without limitation, strict liability) related to or arising in connection with any nuisance, inconvenience, disturbance, injury, death or damage to Persons and property resulting from activities or occurrences described in this Section 3.12.

3.13. Utilities; Release of Claims. Utility boxes and other external improvements related to utility infrastructure (“Utility Boxes”) may be located throughout the Condominium. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, acknowledges and agrees that Declarant makes no representations or warranties that a Utility Box will or will not be located in any particular location. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, assumes the risk that a Utility Box may be located near a particular Unit. Neither the Declarant, the Association, nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Owner, Resident, Lessee or its family, invitees or licensees for any claims or damages resulting, directly or indirectly, from the construction, operation, existence or maintenance of a Utility Box. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, hereby releases the Declarant and the Association from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (including, without limitation, strict liability) related to or arising in connection with any nuisance, inconvenience, disturbance, injury, death or damage to Persons and property resulting from activities or occurrences described in this Section 3.13.

3.14. Mailboxes; Release of Claims. Mailboxes (“Mailboxes”) may be located throughout the Condominium. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, acknowledges and agrees that Declarant makes no representations or warranties that a Mailbox will or will not be located in any particular location. Neither the Declarant, the Association, nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Owner, Resident, Lessee or its family, invitees or licensees for any claims or damages resulting, directly or indirectly, from the construction, operation, existence or maintenance of a Mailbox. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, hereby releases the Declarant and the Association from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (including, without limitation, strict liability) related to or arising in connection with any nuisance, inconvenience, disturbance, injury, death or damage to Persons and property resulting from activities or occurrences described in this Section 3.14.

3.15. Garbage Containers; Release of Claims. Garbage containers/enclosures (“Garbage Containers”) may be located throughout the Condominium. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, acknowledges and agrees that Declarant makes no representations or warranties that a Garbage Container will or will not be located in any particular location.

Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, assumes the risk that a Garbage Container may be located near a particular Unit. Neither the Declarant, the Association, nor any director, officer, agent or employee of any of the foregoing, shall be liable to any Owner, Resident, Lessee or its family, invitees or licensees for any claims or damages resulting, directly or indirectly, from the construction, operation, existence or maintenance of a Garbage Container. Each Owner, Lessee and Resident, for itself and its family, invitees and licensees, hereby releases the Declarant and the Association from any and all claims, actions, suits, demands, causes of action, losses, damages or liabilities (including, without limitation, strict liability) related to or arising in connection with any nuisance, inconvenience, disturbance, injury, death or damage to persons and property resulting from activities or occurrences described in this Section 3.15.

ARTICLE 4

4. USE AND OCCUPANCY RESTRICTIONS

4.1. Single Family Residential Use. All Rental Units and Limited Common Elements shall be used, improved and devoted exclusively to residential use by a Single Family. No gainful occupation, profession, trade or other nonresidential use shall be conducted on or in any Rental Unit or Limited Common Element, but a Unit Owner or other Resident may conduct a business activity within a Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all applicable zoning ordinances or requirements for the Condominium; (c) the business activity does not involve Persons coming to the Unit or the door-to-door solicitation of Unit Owners or other Residents in the Condominium; (d) the trade or business conducted by the Unit Owner or Resident shall not require more than one (1) employee working in or from such Unit any resident who is not a lawful Resident thereof and only if the employee parks any Vehicle outside the Property; (e) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or parking violations; (f) the trade or business does not use flammable liquids or hazardous materials in quantities not customary for residential use; and (g) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of Unit Owners or other Residents in the Condominium, as may be determined from time to time in the sole discretion of the Board. 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 ongoing basis which involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time; (b) such activity is intended to or does generate a profit; or (c) a license is required for such activity. The leasing of a Unit by the Unit Owner thereof shall not be considered a trade or business within the meaning of this Section.

4.2. 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 in, under or on Buildings or other structures approved by the Board. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the development of Buildings or structures approved by the Board.

4.3. Designated Parking. Each Unit shall have four (4) parking spaces assigned to the Unit, one (1) parking space for each Rental Unit within the Unit. Such assignments shall be made by the Association at the time of the sale of the Unit to Purchaser. In no case will any Unit have less than the minimum number of parking spaces required by the City of Phoenix, Arizona. No modification to the Designated Parking Spaces shall be made in relation to any Unit without the affirmative vote of Unit Owners representing more than 67% of the votes of the Association, or by the Declarant during the period of Declarant Control.

4.4. Improvements and Alterations. Any Unit Owner may make nonstructural additions, alterations and improvements within his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium without the prior written approval of the Board, but such Unit Owner shall, to the extent permitted under Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such alterations, additions or improvements. No Person shall make any structural additions, alterations or improvements within a Unit, unless prior to the commencement of each addition, alteration or improvement, the Unit Owner receives the prior written approval of the Board and the Unit Owner retains an

architect or engineer licensed in Arizona who certifies that such addition, alteration or improvement will not impair the structural integrity of the Building within which such addition, alteration or improvement is to be made. The Unit Owner shall, to the extent permitted by Arizona law, be responsible for any damage to other Units and/or to the Common Elements which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a Unit, whether structural or not, which would be visible from the exterior of the Building in which the Unit is located, shall be made without the prior written consent of the Board, which approval shall only be granted if the Board affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding Improvements. No penetration of any kind shall be permitted of any wall that is a Common Element wall or Limited Common Element wall without the express written permission of the Association.

4.5. Trash Containers and Collection. No garbage or trash shall be placed or kept on the Condominium, except in covered containers of a type, size and style which are approved by the Board or as are provided by the City of Phoenix or any private trash/waste collection service that the Board may employ for such purpose. The Board of Directors shall have the right to subscribe to a private trash service as a Common Expense Liability for the use and benefit of the Association and all Unit Owners, and to adopt and promulgate Rules regarding garbage, trash, trash containers and collection. The Board shall have the right to require all Owners to place trash and garbage in containers located in areas designated by the Board. No incinerators shall be kept or maintained in any Unit.

4.6. 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 of his Unit and Limited Common Elements. This Section 4.6 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.

4.7. Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house pets, shall be maintained in or on the Condominium and then only if such house pets are kept or raised solely as domestic pets (and not for commercial purposes) within an Owner's Unit and patio allocated thereto. No house pet shall exceed twenty (20) pounds in weight,

unless such pet is used to aid a handicapped resident and in no event may more than two (2) dogs occupy any Unit regardless of size or weight. No pet or other animal shall be allowed to make an unreasonable amount of noise, cause an odor, or to become a nuisance. All dogs or other house pets permitted hereunder shall be kept on a leash not to exceed six (6) feet in length when outside a Unit, and all pets shall be directly under human control at all times. No Unit Owner or any other lawful Resident or guest or invitee thereof shall permit any such pet being kept in the Unit or the Limited Common Elements allocated to the Unit to relieve itself on any portion of the Common Elements, it being understood that it shall be the responsibility of such Person 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 (including Limited Common Elements) or in any Unit so as to be visible from the exterior of the Building in which the Unit is located. Upon the written request of any Unit Owner, the Board 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 in any Unit or the Limited Common Elements allocated thereto is reasonable. The right of Unit Owners, Lessees and Residents of Units to maintain a reasonable number of house pets in or on the Condominium pursuant to this Section is expressly subject to the right of the Board to restrict such house pets by Rules to only certain portions of the Condominium and to prospectively further restrict the size and number of dogs or other pets which may be maintained or kept in the Units or the Limited Common Elements allocated thereto.

4.8. 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. Temporary buildings or structures used during the construction of Buildings or structures approved by the Board shall be permitted, but must be removed promptly upon completion of the construction of the Building or structure.

4.9. Clothes Drying Facilities. No clotheslines or other facilities for drying or airing clothes shall be erected, placed or maintained on the exterior of any Unit, including, without limitation, on any porches or patios.

4.10. Mineral Exploration. 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.

4.11. Environmental Restrictions. All Residents of the Condominium shall be responsible for complying with all federal and state environmental and health laws. Without limiting the foregoing, no Unit Owner or other Resident may dispose of, transport, or store “hazardous materials” in his Unit or elsewhere in the Condominium, other than small amounts of ordinary household non-combustible cleaning agents maintained in the Unit or Limited Common Element storage areas, and in no event may any Unit Owner or Resident dispose of any hazardous materials, including without limitation, motor oil, hydrocarbons, or other petroleum products, in or down a dry well on or adjacent to the Condominium. Notwithstanding the foregoing, under no circumstances shall the Declarant or Board be obligated to inform Residents of any such violations, nor shall the Declarant or Board be held liable for the enforcement of this provision.

4.12. Diseases and Insects. No Unit Owner shall permit any thing or condition to exist upon the Condominium which could induce, breed or harbor infectious plant or animal diseases or noxious insects.

4.13. General Restrictions Regarding Parking of Vehicles. No truck (other than a Family Vehicle truck described below), mobile home, mini or standard size motor home, travel trailer, tent trailer, trailer, all-terrain vehicle, bus, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle (hereinafter in this Article 4 referred to as “Commercial Vehicles”) may be parked, kept, or maintained on any part of the Condominium or Common Areas other than in that Unit’s Designated Parking Space. A “Family Vehicle” means any domestic or foreign car, station wagon, sport wagon, pick-up truck of less than one ton capacity with camper shells not exceeding seven (7) feet in height measured from ground level, mini-van, jeep, sport utility vehicle, motorcycle and similar non-commercial and non-recreational vehicles that are used by the Owner of the Unit or his family members, Lessees, guests or invitees for family and domestic purposes and which are used on a regular and recurring basis for basic transportation. The Board may, acting in good faith, designate a Commercial Vehicle as a Family Vehicle, if prior to use, the Unit Owner petitions the Board to classify the same as a Family Vehicle if the Commercial Vehicle is similar in size and appearance to a Family Vehicle and the parking of such Vehicle on the Condominium will not adversely affect the Condominium or the Owners of Units therein. Family Vehicles and Commercial Vehicles are collectively referred to in this Article 4 as “Vehicles.”

4.14. Parking. No parking space in the Condominium may be used for storage or for any purpose other than the parking of Vehicles. No Vehicle that takes up more than one parking space may be parked in the Condominium. No Vehicle shall be parked upon any part of the Condominium, except in parking spaces which are part of the Common Elements.

4.15. Motor Vehicle Repair and Towing of Vehicles. Other than temporary emergency repairs, no Vehicle shall be constructed, reconstructed, serviced or repaired, and no inoperable Vehicle may be stored on any portion of the Condominium. The Board shall have the right to have any Vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Condominium Documents towed away at the sole cost and expense of the owner of the Vehicle or equipment. Any expense incurred by the Association in connection with the towing of any Vehicle or equipment shall be paid to the Association upon demand by the owner of the Vehicle or equipment. If the Vehicle or equipment is owned by an 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 for in this Declaration for the collection of Assessments.

4.16. Signs. No emblem, logo, sign or billboard of any kind, including, but not limited to, "For Sale" or "For Rent" signs, shall be displayed so that it is visible from the exterior of any Unit or Building or any other portion of the Condominium or Common Areas without the prior written approval of the Board, except for: (a) signs used by Declarant to advertise the Units for sale; (b) signs on the Common Elements as may be placed or approved by the Declarant during the Period of Declarant Control, or by the Board thereafter; (c) any signs as may be required by legal proceedings; and (d) such signs as are approved by the Board.

4.17. Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of any part of 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.

4.18. Nuisances and Offensive Activity. 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 Resident of the Condominium. 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 and then only to the extent the Owner receives prior written approval from the Board.

4.19. Window Coverings. No reflective materials, including, without limitation, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Unit without the prior written approval of the Board. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Unit or any Limited Common Elements allocated to a Unit shall be constructed or installed in any Unit or Limited Common Element without the prior written approval of the Board, unless the items so installed are substantially identical in color, texture and size as previously approved and installed window coverings being so replaced.

4.20. Community Privacy Measures. Each Unit Owner understands and agrees that neither the Association (nor its officers, directors, employees, and agents) nor the Declarant (nor its officers, directors, employees and agents) is responsible for the acts and omissions of any third parties or of any other Owner or Owner's family members, guests, Lessees and invitees resulting in damage or injury to person or property. Any and all entry/exit gate features or common privacy measures that may be used in the Condominium (as installed by Declarant, at its option, or by the Board on behalf of the Association) will be maintained by the Association, and each Unit Owner understands that any such entry/exit features that are in effect at the time he becomes a Unit Owner may be abandoned, terminated and/or modified by a majority vote of the Board. The commencement of any such devices or controls shall not be deemed to be an assumption of any duty on the part of the Association or the Declarant with respect to the Condominium and neither Declarant, the Board (nor any committee thereof) make any representation or warranty concerning the efficacy of any devices relating to security or the ease of entry of fire, police or other emergency personnel.

4.21. Antennas. Except as may be permitted under the Telecommunications Act of 1996 and the OTARD Rules promulgated thereunder, as either may be amended, no external radio antenna, television antenna, satellite dish, or other signal receptor may be installed on the roof of any Building, the exterior portion of any Unit, on the patio wall associated with the Unit, or in any area designated as a Common Element or Limited Common Element, without the prior written approval of the Board. Additionally, no Owner may use any part of

the Building or Common Elements to house, store, or pass through any cables or wires for television or computer reception or transmittal without written approval of the Board. Even if applicable law prohibits the Board from requiring prior approval for the installation or use of certain types of antennas, satellite dishes or other devices, any such antennas, satellite dishes or other devices must be installed or constructed in accordance with such rules and regulations as the Board of Directors may adopt.

4.22. Leasing. Nothing in the Declaration will be deemed to prevent the leasing of an entire Condominium Unit or any of the four Rental Units located in each Unit therein to a Single Family from time to time by the Owner of the Unit, subject to all of the provisions of the Condominium Documents. Subject to such Rules as the Board may adopt, all leases must: (a) be in writing; (b) contain an acknowledgement that Lessee has been provided with copies of this Declaration and the Rules; (c) provide that the lease is subject in all respects to the Condominium Documents; and (d) provide that any violation of the Condominium Documents by the Lessee or other occupants shall be a default under the lease. No Rental Unit may be leased for an initial term of less than six (6) months, unless otherwise approved by the Board. Any Unit Owner who leases any Rental Unit must provide the Lessee with copies of this Declaration and the Rules. The Unit Owner shall be liable for any violation of this Declaration or the Rules by the Lessee or any other occupants of the Rental Unit, and their guests and invitees. In the event of any such violation, Unit Owner shall, on demand of the Association, immediately take all actions necessary to correct the violation and/or to evict the Lessee and other occupants.

4.23. 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 was granted. The granting of such a 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 or permanent, or requiring the removal or replacement of a non-permanent or semi-permanent structure upon the sale or other conveyance of a Unit. 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.

4.24. Declarant's Exemption. Nothing contained in this Declaration will be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of model homes, structures, Improvements, construction trailers, or signs necessary or convenient to the construction, development, identification, sale, or lease of Units or other property within the Project.

4.25. Leasing of Rental Units. Each Unit shall consist of four (4) individual dwelling units which are referred to in this Declaration as "Rental Units." The Rental Units shall be self-contained units with customary living facilities such as kitchen, bathrooms and bedrooms, for the occupancy by a single Family as defined herein.

ARTICLE 5

5. MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.1. Duties of the Association. The Association shall maintain, repair and make necessary improvements to all Common Elements (including the structural elements of Limited Common Elements), whether located inside or outside the Buildings, except for the specific portions of the Limited Common Elements which the Unit Owners are obligated to maintain pursuant to this Declaration, including Section 5.2. Without limitation, the Association shall be responsible for maintaining residential Building exteriors, roofs, lighting and light fixtures in the Common Elements not otherwise the responsibility of the Unit Owners pursuant to this Declaration. The cost of all such repairs, maintenance and improvements shall be a Common Expense and shall be paid for by the Association. The Board shall be the sole and absolute judge as to the appropriate maintenance of the Common Elements and the Condominium.

No Unit Owner, Resident or other Person shall construct or install any Improvements on the Common Elements or any portion of the Units the Association is obligated to maintain or alter, modify or remove any such Improvements without the approval of the Board. No Unit Owner, Resident or other Person shall interfere with the Association in the performance of the Association's responsibilities under this Section. No Unit Owner, Resident, or other Person shall construct, alter, remove or change in any way, including but not limited to cutting or drilling walls, ceilings or floors, except for changes in wall coverings or floor coverings of any Unit without the prior written approval of the Association to assure that any such are in full compliance with all applicable building, fire and safety codes.

5.2. Duties of Unit Owners.

5.2.1. Each Unit Owner shall maintain, repair, replace and restore, at his own expense, all portions of his Unit, subject to the Condominium Documents.

5.2.2. Each Unit Owner shall be responsible for the maintenance and repair of the Limited Common Elements allocated to his Unit pursuant to Section 2.6 of this Declaration as Limited Common Elements. The Unit Owner shall promptly maintain, repair, replace and, to the extent required for a first class appearance, using materials and paints designated by the Association to maintain a uniform appearance, all doors and windows of the Unit, including entrance area doors and the air conditioning unit (including compressors and condensers), heater and hot water heater servicing the Unit and, to the extent not included within the categories described in this Section 5.2.2, the Limited Common Elements, if any, of the type described in Sections 2.2. above. No Unit Owner may paint or change the exterior color scheme or surfacing materials of his patio area or any portion of the Limited Common Elements allocated to his Unit visible from the Common Elements or any other Unit without the prior written consent of the Board.

5.2.3. Each Unit Owner shall take all necessary action to keep his Unit and the Limited Common Elements which he is obligated to maintain under this Section 5.2 clean and free from unsightly accumulations of trash, furniture in weathered or poor condition, and litter.

5.3. Repair or Restoration Necessitated by Unit 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, or equipment thereon, which results from the negligence or willful misconduct or omission of the Unit Owner or that Owner's family members, Lessees, guests, invitees and pets. 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.

5.4. Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair his Unit or any Limited Common Element which he is obligated to maintain under this Declaration in the manner set forth in this Declaration and the required maintenance, repair or replacement is not performed within ten (10) days after written notice has been given to the Unit Owner by the Association, 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 shall be assessed against the nonperforming Unit Owner pursuant to Section 7.2 of this Declaration.

5.5. Private Sewer Facilities. As used in this Section, the term "Sewer Facilities" means all sewer lines and appurtenant facilities within the boundaries of the Condominium, except for: (a) any sewer lines and appurtenant facilities which serve only one Unit and which are located within the boundaries of the Unit or are part of the Common Elements but are allocated to the Unit by this Declaration as a Limited Common Element; and (b) any sewer lines and appurtenant facilities which have been accepted by and are the responsibility of a governmental or private sewer company. The Association shall be responsible for the operation, maintenance, repair and replacement of the Sewer Facilities in compliance with all applicable federal, state and local laws, ordinances and regulations. The Association shall file all reports regarding the operation and maintenance of the Sewer Facilities as may be required by federal, state or local laws, ordinances or regulations. The Association will advise any utility company or other entity to which the Association gives permission to make additional improvements to the Condominium that the services which are available under Arizona law to locate and mark underground utility lines and facilities within dedicated public rights-of-way are not available to locate the Sewer Facilities, and therefore, a private person or entity will need to be employed for such purpose. Sewer lines and appurtenant facilities which serve only one Unit and which are located within the boundary of a Unit or which are a part of the Common Elements but are allocated to the Unit by this Declaration as a Limited

Common Element shall be maintained, repaired and replaced by the Owner of the Unit served.

5.5.1. **Sewer Operation and Maintenance.** Pursuant to the requirements of the City of Phoenix, La Estrella Vista Condominiums, is required to have a sewer operation and maintenance manual pertaining to the Sewer Facilities. The Association will be responsible for insuring compliance with the “Private Sewer Operation and Maintenance Manual, La Estrella Vista Condominiums”, attached hereto as Exhibit “B” and by reference incorporated herein. Notwithstanding anything herein to the contrary, the Association shall be entitled to assess any costs associated with Sewer Facilities operation and maintenance and compliance with Exhibit “B” hereto or as otherwise determined necessary by the Association, in its sole discretion, in accordance with A.R.S. § 33-1255(C).

5.5.2. **Contract for Sewer Maintenance.** The Association shall maintain a contract in full force and effect at all times with a duly licensed and qualified contractor for maintenance of the system referred to in Section 5.5 above and in Exhibit “B” attached hereto. Any such contractor so hired for sewer maintenance shall be an Arizona Department of Environmental Quality certified operator with a then current grade level and certification as required by the Arizona Department of Environmental Quality for maintenance and operation of the sewer system on the Property.

ARTICLE 6

6. THE ASSOCIATION; RIGHTS AND DUTIES; MEMBERSHIP

6.1. **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 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 requires 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. The Association has the specific duty to make available to the Declarant, Eligible Mortgage Holders, Unit Owners, and Eligible Insurers or Guarantors 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, but only to the extent not otherwise limited by Arizona law, including A.R.S. § 33-1258 of the Condominium Act. Such requests shall be in writing, and the Association shall have the right to charge for copying expenses and the reasonable cost of postage, shipping or transmission of the information requested.

6.2. Directors and Officers.

6.2.1. During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board and the officers of the Association who do not have to be Unit Owners.

6.2.2. Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Board which must consist of at least three (3) members, all of whom must be Unit Owners. The Board elected by the Unit Owners shall then elect the officers of the Association.

6.2.3. The Declarant may voluntarily surrender its right to appoint and remove the members of the Board 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, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

6.3. Rules. The Board, from time to time and subject to the provisions of this Declaration and the Condominium Act, may adopt, amend, and repeal rules and regulations. The Rules may, among other things, restrict and govern the use by any Unit Owner, by the family of such Unit Owner, and Resident, or by any invitee, licensee or Lessee of such Unit Owner, of any area within the Condominium subject to the Association's jurisdiction and control and with respect to the Common Areas to the extent permitted by this Declaration; provided, however, that the Rules may not unreasonably discriminate among Unit Owners

and shall not be inconsistent with the Condominium Act, the applicable federal and state Fair Housing Acts, this Declaration, the Articles or Bylaws. Any such Rules adopted by the Board shall have the same force and effect as if set forth in this Declaration. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Unit Owner and may be recorded.

6.4. Composition of Members. Each Unit Owner shall be a Member of the Association. The membership of the Association at all times shall consist exclusively of all the Unit Owners. Membership in the Association is mandatory and such Membership and the allocated interests thereof are appurtenant thereto, and may not be separated from ownership of the Unit; provided, however, the allocated interests of Units from time to time may be modified or changed as expressly permitted in this Declaration and authorized under the Condominium Act. No Owner during his ownership of a Unit shall have the right to relinquish or terminate his membership in the Association.

6.5. Classes of Members. The Association will have two classes of voting membership:

6.5.1. Class A. Class A members will be all Owners, with the exception of the Declarant. Class A members will be entitled to cast one (1) vote for each Unit owned. When more than one Person holds an interest in any Unit, all joint Owners will be Members; however, for all voting purposes and quorum purposes, they will together be considered to be one Member. The vote for any jointly owned Unit will be exercised as the joint Owners determine, but the votes may not be split, and no more than the total number of votes allocated to the Unit may be cast with respect to that Unit. Any attempt to split votes for a given Unit or cast more than the number of votes applicable to the Unit will result in the invalidity of all votes cast for that Unit.

6.5.2. Class B. The Class B member will be the Declarant. Declarant will be entitled to cast three (3) votes for each Unit owned. The Class B membership will cease and be converted to Class A membership following expiration of the Period of Declarant Control.

6.6. Transfer of Control. When the Period of Declarant Control ends, the Class A Members will accept control of the Association from the Declarant and full responsibility for the operation of the Association (including any operations and preventative maintenance plan for the Common Elements and

Project) and administration of the Property as provided in the Condominium Documents, and Declarant will have no further responsibility for any future acts or omissions with respect to the operation of the Association and administration of the Property (other than the payment of Assessments on Units that the Declarant still owns). Any claims of the Association or any Owners against the Declarant for present or past acts or omissions of the Declarant or its members with respect to the operation of the Association or the administration of the Property (including the availability or sufficiency or any reserves) will be waived, unenforceable, and released if not commenced within one year from the expiration of the Period of Declarant Control.

ARTICLE 7

7. ASSESSMENTS

7.1. Preparation of Budget.

7.1.1. At least sixty (60) days (or soon thereafter as feasible) before the beginning of the first full fiscal year of the Association after the first Unit is conveyed to a Purchaser and each fiscal year thereafter, the Board shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board believes will be required during the ensuing fiscal year to pay all Common Expenses including, but not limited to: (a) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units, if any, which the Association has the responsibility of maintaining, repairing and replacing; (b) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (c) the amount required to render to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; (d) such amounts as are necessary to provide general operating reserves and reserves for contingencies and replacements; and (e) the assessment shall include an amount to reimburse the Association for water provided to the Units. If water consumption of each Unit can be separately metered, the Association, at its option, may separately assess the water used by a particular Unit to that Unit. The budget may separately reflect any Common Expenses to be assessed against less than all of the Units pursuant to Section 7.2 of this Declaration and may include an adequate allocation to reserves as part of the Common Expense Assessment

7.1.2. Within thirty (30) days after the adoption of a budget, the Board 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 Section 7.2 of this Declaration. The failure or delay of the Board to prepare or adopt a budget for any fiscal year 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 Section 7.2 of this Declaration 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.

7.1.3. 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.

7.2. Common Expense Assessment.

7.2.1. 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 (except for the Common Expenses which are to be assessed against less than all of the Units pursuant to the Subsections of this Section) shall be assessed against each Unit in the proportion to the Unit's Common Expense Liability as set forth in Section 2.4 of this Declaration. If the Board 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, non-payment 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.

7.2.2. The Common Expense Assessments shall commence as to all Units on the first day of the month following 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 may require that the Common Expense Assessments or Special Assessments be paid in installments. Unless otherwise directed by the Board, Common Expense Assessments shall be paid in monthly installments and shall be due and payable on the first day of each month.

7.2.3. 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, and reserves for Common Expenses, shall be assessed against all of the Units in accordance with Subsection 7.2.1 of this Section.

7.2.4. 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.

7.2.5. Any Common Expense or portion of a Common Expense that benefits fewer than all of the Units shall be assessed exclusively against the Units benefited, whether or not related to a Common Element or Limited Common Element.

7.2.6. 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.

7.2.7. The Common Expense Assessment for any Unit in the Condominium owned by the Declarant on which construction has not been “substantially completed” shall be an amount equal to twenty-five percent (25%) of the Common Expense Assessment for Units that have been substantially completed. So long as any Unit owned by the Declarant qualifies for the reduced Common Expense Assessment provided for in this Subsection 7.2.7, and, only if Declarant elects to pay such reduced Assessment, the Declarant shall be obligated to pay to the Association deficiencies in the monies resulting from the Declarant having paid a reduced Common Expense Assessment and amounts necessary for the Association to be able to timely pay all Common Expenses. Without limiting the foregoing, “substantial completion” of a Unit shall mean a Unit that is ready for immediate occupancy by a Resident either by sale or lease and contains all the ordinary and customary necessary kitchen, bathroom and flooring fixtures for that purpose. Notwithstanding the reduced assessment on Units that are not substantially completed, Declarant’s maximum obligation for Association deficiencies (shortfalls) will be equal to the uniform rate of assessments on all Units multiplied by the number of Units upon which Declarant paid a reduced assessment, less all amounts previously paid by Declarant as reduced assessments on Units.

7.3. Special Assessments. In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, a special

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 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 written ballot at a meeting duly called for such purpose, and to the extent approved in writing by Declarant during the Period of Declarant Control. Unless otherwise specified by the Board, 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.

7.4. Notice and Quorum for Any Action Authorized Under Section 7.2 or 7.3. 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 Sections 7.2 or 7.3 shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of ballots entitled to cast fifty-one percent (51%) 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 immediately preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

7.5. Effect of Nonpayment of Assessments; Remedies of the Association.

7.5.1. Any Assessment, or any installment of an Assessment, which is not paid within fifteen (15) days after the Assessment first became due, shall be deemed delinquent and shall bear interest from the date of the delinquency at the rate of eighteen percent (18%) per annum. In addition, the Board shall establish a reasonable monthly late fee to be charged to a Unit Owner and assessed against his Unit as part of the Assessment Lien for each installment of an Assessment that is deemed delinquent, but in no event will any such monthly late charge be less than fifteen dollars (\$15.00) or ten percent (10%) of the unpaid Assessment or installment of an Assessment, whichever is greater.

7.5.2. All Assessments, including monetary penalties and other fees and charges imposed or levied against any Unit or Unit Owner, shall be secured

by an Assessment Lien. The recording of this Declaration constitutes record notice and perfection of any Assessment Lien and no further recordation of any claim of lien shall be required. Although not required to perfect an Assessment Lien, the Association shall have the right, but not the obligation to record a notice setting forth the amount of any delinquent Assessments, including monetary penalties or other fees or charges imposed or levied against the Unit or the Unit Owner, which are secured by the Assessment Lien.

7.5.3. The Assessment Lien shall have priority over all liens, other interests and encumbrances except for: (a) liens and encumbrances recorded before the recording of this Declaration; (b) liens for real estate taxes and other governmental assessments and charges; and (c) the lien of any First Mortgage to the extent set forth in ARS §33-1256(B)(2). 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 (other than a direct or indirect retitling of the Unit by the delinquent Owner), 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 obligation of the defaulting Unit Owner.

7.5.4. The Association shall have the right, at its option, to assess against a Unit Owner any attorneys fees (whether or not a lawsuit is filed) incurred by the Association with respect to any violation of the Condominium Documents by the Owner or the Owner's Lessees, Residents, or Invitees.

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

7.7. Certificate of Payment. The Association, on written request, shall furnish to a lienholder, Unit Owner or Person designated by a Unit Owner, a statement setting forth the amount of unpaid Assessments against his Unit. The

statement shall be furnished within twenty (20) business days after receipt of the request and is binding on the Association, the Board, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Board for each such statement. In addition, the Association shall furnish such statements as may be required under A.R.S. §33-1256 and § 33-1260 within the time frames set forth therein for compliance.

7.8. No Offsets. All Assessments, including monetary penalties and other fees and charges, shall be payable in accordance with the provisions of this Declaration, and no offsets against such Assessments 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.

7.9. Surplus Funds. Surplus funds of the Association remaining after payment of or provisions for Common Expenses and any prepayment of reserves may, in the discretion of the Board, either 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 Liability.

7.10. Monetary Penalties. In accordance with the procedures set forth in the Community Documents, the Board shall have the right to levy reasonable monetary penalties against a Unit Owner for violations of the Condominium Documents. Such penalties shall be enforceable as any Assessment pursuant to this Declaration, including this Article 7, to the extent permitted by law.

7.11. Community Enhancement Fee. To ensure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser of a Unit shall pay to the Association immediately upon becoming the Owner of a Unit a sum equal to one-sixth (1/6th) of the Annual Assessment on the Unit. Funds paid to the Association pursuant to this Section may be used by the Association for payment of operating expenses or any other purpose permitted under the Condominium Documents. Payments made pursuant to this Section shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration. The Community Enhancement Fee payable in connection with the sale of a Unit shall be secured by the Assessment Lien provided in this Article 7, and shall be the personal obligation of the Purchaser of the Unit. No Community Enhancement Fee shall be payable in connection with (a) a

conveyance of a Unit to a grantee that is a trust, partnership, corporation or other entity so long as such grantee is and remains wholly-owned by the predecessor grantor or by such grantor and the grantor's spouse and/or children, (b) a conveyance of a Unit by a Unit Owner or the Unit Owner's estate to the Unit Owner's spouse and/or children, or (c) a conveyance of an undivided interest in a Unit to the then-existing co-owners of the Unit.

7.12. Transfer, Refinance and Disclosure Fees. Each Purchaser of a Unit from someone other than the Declarant shall pay to the Association, immediately upon becoming the Owner of a Unit, a transfer fee in such amount as established from time to time by the Board. Any Owner of a Unit who sells or refinances his Unit and who requires a status or disclosure statement from the Association in connection therewith shall pay to the Association a refinance or disclosure fee in such amount as is established from time to time by the Board. As with any amount assessed pursuant to this Declaration, fees charged pursuant to this Section shall be secured by the Assessment Lien established pursuant to this Article 7.

7.13. Duty of Association to Maintain Exterior of Units. Notwithstanding anything in these Declarations to the contrary, the Association shall be solely responsible and shall pay the costs and expenses of the maintenance, care and replacement of the exterior painted surfaces of the Units and the repair, maintenance and replace of the roofing materials. Such costs and expenses shall be Common Expenses. Nevertheless and notwithstanding, the costs and expenses of repairs and/or replacements to the paint or roofing material which results from the negligence or willful misconduct or omission of the Unit Owner or that Owner's family members, Lessees, guests, Invitees and pets shall be the sole obligations of the Unit Owner and 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.

ARTICLE 8

8. INSURANCE

8.1. Scope of Coverage.

8.1.1. 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:

8.1.1.1. Property insurance on the Common Elements and “bare walls” property insurance coverage on Units. The policy is to be issued on a “Special Form” policy or its equivalent in an amount determined by the Board; provided, however, that the total amount of insurance 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 master or blanket hazard and multi-peril property insurance policy.

8.1.1.2. Comprehensive General Liability insurance, for a limit to be determined by the Board, but not less than \$1,000,000.00 for any single occurrence and \$2,000,000.00 general aggregate. 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.

8.1.1.3. Workmen’s compensation insurance to the extent necessary to meet the requirements of the laws of Arizona.

8.1.1.4. Directors’ and officers’ liability insurance covering all the directors and officers of the Association in such limits as the Board may determine from time to time. The directors’ and officers’ policy shall have a limit of no less than one million dollars (\$1,000,000.00) per claim. Policies shall be written on a claim made basis with a retroactive date through the date the Association is lawfully created under the laws of the State of Arizona.

8.1.1.5. Such other insurance as required by A.R.S. § 33-1253 of the Condominium Act or as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board, or the Unit Owners.

To the extent reasonably available, all policies shall be procured from carriers with a rating of “A” or better.

8.1.2. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions:

8.1.2.1. Each Unit Owner shall be an 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.

8.1.2.2. There shall be no subrogation with respect to the Association, its agents, servants, its Board or officers thereof, and employees against Unit Owners and members of their household.

8.1.2.3. 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.

8.1.2.4. 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.

8.1.2.5. 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.

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

8.1.2.7. 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 thirty (30) days in advance of the effective date of any substantial change in coverage or cancellation of the policy.

8.1.2.8. Any Insurance Trust Agreement will be recognized by the insurer.

8.1.2.9. 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.

8.1.2.10. If the Condominium 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 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.

8.1.2.11. "Agreed Amount," and "Building Ordinance or Law" endorsements, except where expressly not applicable or not available.

8.1.3. Notwithstanding any other provisions of this Article 8 to the contrary, there may be named as an insured an authorized representative on behalf of the Association who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. Each Unit Owner appoints the Association or any authorized representative designated by the Association as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: (a) the collection and appropriate disposition of the proceeds thereof; (b) the negotiation of losses and execution of releases of liability; (c) the execution of all documents; and (d) the performance of all other acts necessary to accomplish such purpose.

8.1.4. The Association and its directors and officers shall have no liability to any Owner, First Mortgagee, or other person having a lien on a Unit if, after a good faith effort: (a) the Association is unable to obtain insurance required herein because the insurance is no longer available; (b) if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances; or (c) the Members fail to approve any increase in the Common Expense Assessment needed to pay the insurance premiums.

8.1.5. The Board shall determine annually whether the amounts and types of insurance the Association has obtained provide adequate coverage in light

of increased construction costs, inflation, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Owners and of the Association.

8.2. Payment of Premiums. Premiums for all insurance obtained by the Association pursuant to this Article shall be Common Expenses and shall be paid for by the Association. Payment of deductibles shall be handled as any other amount pursuant to this Declaration or the Condominium Documents. The Board may select deductibles applicable to the insurance coverage to be maintained by the Association in order to reduce the premiums payable for such insurance. The Board, in its sole and absolute discretion, shall determine whether the deductible is wholly or partially the responsibility of the Association and/or wholly or partially the responsibility of one or more Unit Owners, and the obligation for the deductible will be assessed accordingly. Moreover, the Board can chose not to disburse any insurance premiums to a Unit Owner without receiving adequate assurances regarding payment of the deductible by the Unit Owner or the Board can advance any such deductible on behalf of the Unit Owner and any such deductible may be collected and enforced as any other Assessment pursuant to this Declaration and the same is covered by the Assessment Lien.

8.3. Insurance Obtained by Unit Owners/Non-Liability of Association. The issuance of insurance policies to the Association pursuant to this Article 8 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. Notwithstanding the obligation of the Association to obtain insurance coverage as stated in this Declaration, neither the Declarant nor the Association, or their respective officers, directors, employees and agents, shall be liable to any Unit Owner or any other party if any risks or hazards are not covered by the insurance to be maintained by the Association or if the amount of the insurance is not adequate, and it shall be the responsibility of each Unit Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for any additional insurance coverage and protection that the Unit Owner may desire. Further, as the Association is only required to secure "bare walls" coverage on the Unit, each Owner is encouraged to secure at his own cost and expense, at a minimum, an HO6 policy of insurance, plus any additional endorsements deemed appropriate by the Owner, including an insurance deductible endorsement.

8.4. Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article 8 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 for in A.R.S. §33-1253 of the Condominium Act.

8.5. Certificate of Insurance. An insurer that has issued an insurance policy pursuant to this Article 8 of the Declaration 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 nonrenewal 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.

ARTICLE 9

9. DESTRUCTION OF IMPROVEMENTS

9.1. Automatic Reconstruction. Any portion of the Condominium for which insurance is maintained by the Association which is damaged or destroyed shall be repaired or replaced promptly by the Association unless: (a) the Condominium is terminated; (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (c) eighty percent (80%) of the Unit Owners, including every Owner of a Unit or allocated limited Common Element which will not be rebuilt, vote not to rebuild. 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 7.3.

9.2. Determination Not to Reconstruct Without Termination. 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 Condominium 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 allocated as if the Unit had been condemned under A.R.S. § 33-1206A, and the Association shall prepare, execute and record an amendment to this Declaration reflecting the reallocation.

9.3. Distribution of Insurance Proceeds in the Event of Termination of the Condominium. Notwithstanding any provisions of this Article 9 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 Condominium Act in the event of a termination of the Condominium.

9.4. Negotiations with Insurer. 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 Unit 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 9.1 and 9.2 herein, all insurance proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements, and 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.

9.5. 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.

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

ARTICLE 10

10. EMINENT DOMAIN

10.1. Total Taking of a Unit. If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for his Unit and interest in the Common Elements, regardless of whether any Common Elements are acquired. On acquisition, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be automatically reallocated to the remaining Units in proportion to their respective allocated interests immediately before the taking. Upon such a taking, the Association shall prepare, execute and record an amendment to the Declaration in compliance with the Condominium Act. Any remnant of a Unit remaining after part of a Unit is taken becomes a Common Element.

10.2. Partial Taking of a Unit. Except as provided in Section 10.1, if part of a Unit is acquired by eminent domain, the award must compensate the Unit Owner for the reduction in value of the Unit and its interest in the Common Elements, regardless of whether any Common Elements are acquired. On acquisition, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be reduced in proportion to the reduction in size of the Unit and the portion of the allocated interests divested from the partially acquired Unit shall be automatically reallocated to that Unit and the remaining Units in proportion to their respective allocated interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced interest.

10.3. Taking of Common Elements. If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken shall be paid to the Association for the benefit of the Unit Owners, and any portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the Owners of the Units to which that Limited Common Element was allocated at the time of the acquisition.

10.4. Taking of Entire Condominium. In the event the Condominium in its entirety is acquired by eminent domain, the Condominium is terminated and the provisions of A.R.S. § 33-1228 apply.

10.5. Priority and Power of Attorney. Nothing contained in this Article 10 shall entitle a Unit Owner to priority over any First Mortgagee under a lien encumbering his Unit as to any portion of any condemnation award allocated to such Unit. Each Unit Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Elements, or any part thereof. This power of attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of a Unit Owner.

ARTICLE 11

11. RIGHTS OF FIRST MORTGAGEES

11.1. 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:

11.1.1. Any condemnation loss or any casualty loss which affects 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;

11.1.2. 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 obligation under the Condominium Documents, which delinquency or default remains uncured for the period of sixty (60) days;

11.1.3. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

11.1.4. Any proposed action which requires the consent of a specified percentage of Eligible Mortgage Holders as set forth in Section 11.2 of this Declaration.

11.2. Approval Required for Amendment to Condominium Documents.

11.2.1. 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 Condominium Documents which establish, provide for, govern or regulate any of the following:

- 11.2.1.1. Voting rights;
- 11.2.1.2. Assessments, Assessment Liens, or subordination of Assessment Liens;
- 11.2.1.3. Reserves for maintenance, repair and replacement of Common Elements;
- 11.2.1.4. Insurance or fidelity bonds;
- 11.2.1.5. Responsibility for maintenance and repairs;
- 11.2.1.6. Expansion or contraction of the Condominium, or the addition of property to Condominium;
- 11.2.1.7. Boundaries of any Unit;
- 11.2.1.8. Reallocation of interests in the Common Elements or Limited Common Elements or rights to their use;
- 11.2.1.9. Convertibility of Units into Common Elements;
- 11.2.1.10. Imposition of any restriction on a Unit Owner's right to sell or transfer his Unit;

11.2.1.11. A decision by the Association to establish self-management when professional management had been required previously by an Eligible Mortgage Holder;

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

11.2.1.13. Any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; and

11.2.1.14. Any provisions which expressly benefit First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors.

11.2.2. 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 the Unit Owners representing at least eighty percent (80%) 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.

11.2.3. Any Eligible Mortgage Holder who receives a written request to approve additions or amendments to any of the Condominium Documents 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.

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

Any addition or amendment to the Declaration, Articles or Bylaws shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

11.3. Prohibition Against Right of First Refusal. The right of a Unit Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction.

11.4. Right of Inspection of Records. Any Unit Owner, First Mortgagee or Eligible Insurer or Guarantor shall, upon written request, and to the extent permitted by law, be entitled to: (a) inspect the current copies of the Condominium Documents and the books, records and financial statements of the Association during normal business hours; (b) receive within one hundred eighty (180) days following the end of any fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association; and (c) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

11.4.1. Upon written request of any agency or corporation which has an interest or prospective interest in the Condominium, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association.

11.4.2. The Association, upon request, shall make available for inspection during normal business hours to prospective purchasers of a Unit, copies of the Condominium Documents and the most recent annual audited financial statement, if one has been prepared.

11.4.3. Notwithstanding this Section 11.4, the Board may withhold from disclosure such books, records and documents of the Association, or portions thereof, designated under A.R.S. §33-1258 of the Condominium Act.

11.5. 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 eighty percent (80%) of all Unit Owners (other than the Declarant) of the Units have given their prior written approval, the Association shall not be entitled to:

11.5.1. By act or omission, seek to abandon or terminate this Declaration or the Condominium;

11.5.2. Change the pro rata interest or obligations of any individual Unit for the purpose of: (a) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (b) determining the pro rata share of ownership of each Unit in the Common Elements;

11.5.3. Partition or subdivide any Unit;

11.5.4. 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 subsection; and

11.5.5. 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.

11.6. 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.

11.7. 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 the 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 A.R.S. §33-1206 of the Condominium Act.

11.8. Restoration or Repair of Condominium. Any restoration or repair of the Condominium after a partial condemnation or change due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval of Eligible Mortgage holders holding mortgages on Units to which at least fifty-one percent (51%) of the votes in the Association allocated to the Units subject to First Mortgages held by Eligible Mortgage Holders is obtained.

11.9. Limitation on Partition and Subdivision. No Unit shall be partitioned or subdivided without the prior written approval of any First Mortgagee of that Unit. This Section 11.9 may not be amended without the consent of all First Mortgagees then of record.

11.10. Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article 11 and any other provision of the Condominium Documents, the provisions of this Article 11 shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this Article 11 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 (a) an amendment to any of the Condominium Documents, (b) a termination of the Condominium, or (c) certain actions of the Association as specified in Sections 11.2 and 11.5 of this Declaration, 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, however, that the Declarant, without the consent of any Unit Owner or First Mortgagee being required, shall have the right to amend the Condominium Documents to comply with: (a) the Condominium Act; (b) the requirements or guidelines in effect from time to time of 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 National Mortgage Association and the Federal Home Loan Mortgage Corporation; (c) the rules or requirements of any federal, state or local governmental agency whose approval of the Condominium or the Condominium Documents is required by law or requested by the Declarant; or (d) correct any error or inconsistency in the Declaration, the Articles or the Bylaws if the amendment does not adversely affect the rights of any Unit Owner.

ARTICLE 12

12. DISPUTE RESOLUTION

12.1. Defined Terms. As used in this Article 12, the following terms shall have the meaning set forth below:

12.1.1. “Alleged Defect” means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Common Elements or any Unit.

12.1.2. “Bound Parties” mean (a) the Declarant; (b) the Association; (c) all unit Owners, Lessees and Residents; and (d) any contractor or subcontractor, architect, engineer, consultant or other Person who performs or furnishes the design, specifications, surveying, planning, supervision, testing, construction or observation of construction of the Common Elements or the Units and who agrees in writing to be bound by the provisions of this Article 12.

12.1.3. “Claim” means: (a) any claim or cause of action arising out of or related in any way to the planning, design, engineering, grading, construction or development of the Common Elements, the Units or any other part of the Condominium, including, without limitation, any claim or cause of action that the Common elements or the Unit are defecting or that the Declarant, its agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof; or (b) any claim or cause of action against the Declarant or any employee, agent, director, member or officer of Declarant arising out of or in any way related to the development of the Condominium or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty.

12.2. Agreement to Resolve Certain Disputes Without Litigation. All Bound Parties agree that all Claims shall be resolved in accordance with the dispute resolution procedures set forth in this Article 12.

12.3. Notice of Claim. Any Bound Party who contends or alleges to have a Claim (a “Claimant”) against any other Bound 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, Persons involved, and Respondent’s role in the Claim; (b) the factual and legal basis of the Claim; and (c) the nature of the remedy Claimant desires from Respondent.

12.3.1. **Right to Inspect and Right to Corrective Action.** Following the receipt by a Bound Party of a Claim Notice with respect to an Alleged Defect, the Bound Party and its employees, agents, contractors, subcontractors and consultants shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Elements and any Unit for the purposes of inspecting and/or conducting testing to determine the validity of the Claim and, if deemed necessary by the Bound Party, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing,

repairs and/or replacement, the Bound Party shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

12.3.2. No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in Section 12.3.1 shall be construed to impose any obligation on a Bound Party to inspect, test, repair or replace any item of the Condominium for which the Bound Party is not otherwise obligated under applicable law or any limited warranty provided by a Bound Party in connection with the sale of the Condominium and/or the Improvements constructed thereon. The right of the Bound Party its employees, agents, contractors, subcontractors and consultants 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 the Official Records of Maricopa County, Arizona. In no event shall any statutes of limitations be tolled during the period in which a Bound Party conducts any inspection, testing, repair or replacement of any Alleged Defects.

12.3.2.1. Notice to Members. In the event the Claimant is the Association and the Claim involves an Alleged Defect, the Association must provide written notice to all Members prior to delivering a Claim Notice to a Bound Party or initiating any legal action, cause of action, proceeding, or arbitration against any Bound Party which notice shall (at a minimum) include: (a) a description of the Claim; (b) a description of the attempts of Declarant or any other Bound party to correct such Alleged Defect and the Opportunities provided to Declarant or any other Bound Party to correct such Alleged Defect; (c) 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; (d) the estimated cost to repair such Alleged Defect; (e) the name and professional background of the attorney retained by the Association to pursue the Claim and a description of the relationship between such attorney and member(s) of the Board, if any; (f) a description of the fee arrangement between such attorney and the Association; (g) the estimated attorneys' fees and expert fees and costs necessary to pursue the Claim and the source of the funds which will be used to pay such fees and expenses; (h) the estimated time necessary to conclude the action; and (i) an affirmative statement from the Board of Directors that the action is in the best interests of the Association and its Members. No costs or attorneys fees for any such Claim can come from the Association's general operating account or from any reserve funds. All costs and attorney fees for any such Claim must be funded by a Special Assessment properly passed pursuant to Article 7 of this Declaration.

12.4. Mediation. The Claimant and the 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 (3) 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 pursuant to the mediation procedures adopted by the American Arbitration Association (except as such procedures are modified by the provisions of this Article 12) or any successor thereto or to any other entity offering mediation services that is acceptable to the parties.

12.4.1. No person shall serve as a mediator in any dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process.

12.4.1.1. Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

12.4.1.2. Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

12.4.1.3. Parties Permitted at Sessions. Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of both parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediator while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

12.4.1.4. Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but not limited to the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise in writing. Each party to the mediation shall bear its own attorneys' fees and costs in connection with such mediation.

12.4.2. 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.

12.4.3. 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 mediation was terminated.

12.5. Binding Arbitration. In the event a Claim is not resolved by mediation, the Claimant shall have ninety (90) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section 12.5. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. The Claimant and Respondent shall cooperate in good faith to assure that all Bound 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 the Claim to binding arbitration in accordance with this Section 12.5, the arbitration shall be conducted in accordance with the AAA Commercial Arbitration Rules or such other rules as the AAA may determine to be applicable (the "AAA Rules"), and A.R.S. § 12-1501, *et. seq.* In the event of a conflict between the AAA Rules and this Section 12.5, the provisions of this Section 12.5 shall govern.

12.5.1. Neutrality of Arbitrator. The Arbitrator shall neutral and impartial. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the

parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties.

12.5.2. Confidentiality. 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.

12.5.3. Final Award. The Arbitrator shall promptly (but, in no event later than sixty (60) days following 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 may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not 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.

12.6. Use of Funds. Any judgment, award or settlement received by a Claimant in connection with a Claim involving an Alleged Defect shall first be used to correct and/or repair such Alleged Defect or to reimburse the claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. Any excess funds remaining after repair of such Alleged Defect shall be paid into the Association's reserve fund.

12.7. Statutes of Limitation. Nothing in this Article 12 shall be considered to toll, stay, reduce or extend any applicable statute of limitations.

12.8. Required Consent of Declarant to Modify. This Article 12 below may be amended except in accordance with Section 13.5 of this Declaration and then only with the express written consent of the Declarant.

12.9. Required Consent of Unit Owners. The Association shall not deliver a Claim Notice to any Bound Party or commence any legal action or

arbitration proceeding or incur legal expenses (including without limitation, attorneys' fees) in connection with any Claim without the written approval of Unit Owners entitled to cast more than seventy-five percent (75%) of the total votes in the Association who are voting in person or by written ballot at a meeting duly called for such purpose, excluding the votes of any Unit Owner who would be a defendant or respondent in such proceedings.

12.9.1. Notice to Unit Owners. Prior to obtaining the consent of the Unit Owners in accordance with Section 12.9, the Association must provide written notice to all Unit Owners as provided in Subsection 12.3.2.1 above.

12.9.2. The Association must pay for any such legal action, mediation, or arbitration with moneys that are specifically collected for such purposes and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees.

12.9.3. Notification to Prospective Purchasers. In the event that the Association commences any action or Claim, all Unit Owners must notify prospective Purchasers of such action or Claim and must provide such prospective Purchasers with a copy of the notice received from the Association in accordance with Subsection 12.3.2.1.

12.10. Conflicts. In the event of any conflict between this Article 12 and any other provision of the Condominium Documents, this Article 12 shall control.

BY ACCEPTANCE OF A DEED OR BY ACQUIRING A UNIT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSIONS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE PROVISIONS OF THIS ARTICLE 12 AND WAIVES THE RIGHT TO PURSUE ANY DECLARANT OR OTHER BOUND PARTY IN ANY MANNER OTHER THAN AS PROVIDED IN ARTICLE 12. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN THIS ARTICLE 12, 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.

ARTICLE 13

13. GENERAL PROVISIONS

13.1. Enforcement. The Association may enforce the Condominium Documents in any manner provided for in the Condominium Documents or by law or in equity, including, but not limited to:

13.1.1. imposing reasonable monetary penalties after notice an an opportunity to be heard is given to the Unit Owner or other violator. A Unit Owner shall be responsible for payment of any fine levied or imposed against a Lessee or Resident of the Owner's Unit or by any Invitee of the Unit Owner or any Lessee or Resident;

13.1.2. suspending a Unit Owner's right to vote;

13.1.3. suspending any Person's right to use any facilities within the Common Elements, provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

13.1.4. suspending any services provided by the Association to a Unit Owner or the Owner's Unit if the Unit Owner is more than fifteen (15) days delinquent in paying any assessment or other charge owed to the Association;

13.1.5. exercising self-help or taking action to abate any violation of the Condominium Documents in a non-emergency situation;

13.1.6. requiring a Unit Owner, at the Unit Owner's expense, to remove any Improvement installed or constructed in which such Owner's Unit or in any limited Common element allocated to the Owner's unit in violation of this Declaration and to restore the Unit or the Limited Common Element to its previous condition and, upon failure of the Unit Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

13.1.7. without liability to any person, prohibiting any contractor, subcontractor, agent, employee or other invitee of a Unit Owner who fails to comply with the terms and provisions of the Condominium Documents from continuing or performing any further activities in or on the Condominium;

13.1.8. towing vehicles which are parked in violation of this Declaration or the Rules;

13.1.9. filing a suit at law or in equity to enjoin a violation of the Condominium Documents, to compel compliance with the Condominium Documents, to recover monetary penalties or money damages or to obtain such other relief to which the Association may be entitled;

13.1.10. recording a written notice of a violation 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: (a) the legal description of the Unit against which the notice is being recorded; (b) a brief description of the nature of the violation; and (c) 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 has been cured, the Association shall record a notice of compliance which shall state the legal description of the Unit against which the Notice of Violation was recorded, the recording data of the Notice of Violation, and shall state that the violation referred to in the Notice of Violation has been cured, or if such be the case, that it did not exist.

The Association shall not be obligated to take any enforcement action if the Board 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, enforcement action would not be appropriate or in the best interests of the Association. No enforcement option or series of enforcement options selected by the Association shall be considered a limitation on any other options nor an election of remedies. 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.

Any Unit Owner may enforce the Condominium Documents in any manner provided for in this Declaration or at law or in equity, except that a Unit Owner may not exercise any remedy provided to the Association by this Declaration or enforce payment of any Assessments or other amounts payable to the Association pursuant to the Condominium Documents.

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

13.3. Duration. Except as they may be earlier terminated or amended pursuant to Sections 13.4 and 13.5 below, 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.

13.4. Termination of Condominium. Subject to the further provisions of this Declaration regarding First Mortgagee notice and consent requirements, the Condominium may be terminated only in the manner provided for in the Condominium Act and with the express permission of the Declarant during the Period of Declarant Control.

13.5. Amendment.

13.5.1. Except in cases of amendments that may be executed by the Declarant in the exercise of its Development Rights under this Declaration or under A.R.S. §33-1220 of the Condominium Act, by the Association under A.R.S. §§ 33-1206 or 33-1216(D) of the Condominium Act, or by certain Unit Owners under A.R.S. §§ 33-1218(B), 33-1222, 33-1223 or 33-1228(B) of the Condominium Act, and except to the extent permitted or required by other provisions of the Condominium Act, the Declaration, including the Plat, may be amended at any time by vote of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, at any time during the initial term hereof or any renewal term and without regard to whether such amendment has uniform application to the Units or the Condominium as a whole.

13.5.2. Except to the extent expressly permitted or required by this Declaration or by the Condominium Act, 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.

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

13.5.4. During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to comply with (a) the Condominium Act; (b) the rules or guidelines in effect from time to time of 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 National Mortgage Association and the Federal Home Loan Mortgage Corporation; or (c) the rules or requirements of any federal, state or local governmental entity or agency whose approval of the Condominium, the Plat or any other Condominium Document is required by law or requested by the Declarant.

13.5.5. During the Period of Declarant Control, the 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 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 A.R.S. §33-1220 of the Condominium Act.

13.5.6. Any amendment adopted by the Unit Owners pursuant to Subsection 13.5.1 above shall be signed by the President and Secretary of the Association and shall be recorded in the Official Records of the Maricopa County, Arizona Recorder. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to this Section 13.5 or the Condominium Act shall be executed by the Declarant and shall be recorded in the Official Records of the Maricopa County, Arizona Recorder.

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

13.7. Notices. All notices, demands, statements or other communications required 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 first class mail, postage prepaid, addressed as follows: (a) 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 (b) if to the Association or the Declarant, to Post Office Box 4150, Mesa, Arizona 85211, or such other 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 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.

13.8. 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 interest 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 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 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.

13.9. 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.

13.10. Topic Headings. 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.

13.11. Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Unit 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.

13.12. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws, or the Association Rules, the provisions of this Declaration shall prevail. The order of priority in interpreting the other Condominium Documents shall be in accordance with A.R.S. § 33-1213(C) of the Condominium Act.

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

13.14. Change of Circumstances. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

13.15. Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule Against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as

of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest. That “lives in being” for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

13.16. 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.

13.17. Guests and Lessees. Each Unit Owner shall, to the extent permitted by Arizona law, be responsible for compliance by his agents, 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.

13.18. Attorneys’ Fees and Costs. In the event the 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 or noncompliance with the Condominium Documents, the prevailing party in any such action shall be entitled to recover from the other party his reasonable attorneys’ fees and costs, including expert fees, incurred in the action.

13.19. 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.

13.20. 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, the Association and any future Board members and officers of the Association harmless therefrom.

13.21. Damage to Units and Common Elements. Unit Owners shall only be responsible for damage to the Common Elements, Units or Common Areas caused by the Unit Owners' negligence or intentional acts and the negligent or intentional acts of their family members, Lessees, licensees, invitees, guests, agents or employees.

13.22. Views not Guaranteed. Although certain Units at any point in time may have particular views, no express or implied easements exist for views or for the passage of light and air to any Unit. Neither Declarant nor the Association make any representation or warranty whatsoever, express or implied, concerning the view which any Unit will have, whether at the date this Declaration is recorded or thereafter. Further, the payment of any premium for any Unit does not constitute a guarantee of any view the Unit may have now or in the future. Any view which exists at any point in time for a Unit maybe impaired or obstructed by further construction within the Association, including without limitation, by construction of Improvements by Declarant, construction by third parties, and the natural growth of landscaping. No third party, including, without limitation, any broker or salesperson has any right to bind Declarant or the Association with respect to the preservation of any view from any Unit or any view of a Unit from any other Property.

13.23. Right to Configure Project. To the extent permitted by law, the declaration shall have the right, at any time, to change the design, size and configuration, or make any other changes as it deems appropriate, of the Association. There is no guarantee that the Association will be developed as originally planned.

13.24. Laws, Ordinances and Regulations. The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other Persons to obtain the approval of the Board with respect to certain actions are independent of the obligation of the Owners and other Persons to comply with all applicable laws, ordinances and regulations, and compliance with this Declaration shall not relieve an Owner or any other Person from the obligation to also comply with all applicable laws, ordinances and regulations. Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the

Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

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EXHIBIT "A"
TO
DECLARATION OF CONDOMINIUM AND OF
COVENANTS, CONDITIONS,
AND RESTRICTIONS
FOR
LA ESTRELLA VISTA CONDOMINIUMS

That part of Government Lot 4, in Section 30, Township 2 North, Range 2 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona described as follows:

COMMENCING at the Southwest corner of said Lot 4;

thence North 01 degrees 07 minutes 20 seconds East, along the West line of said Lot 4, a distance of 559.04 feet;

thence South 89 degrees 52 minutes 29 seconds East, parallel with the South line of said Lot 4, a distance of 40.01 feet to a point on the East line of the West 40 feet of said Lot 4;

thence North 01 degrees 07 minutes 20 seconds East, along said East line 558.20 feet to the TRUE POINT OF BEGINNING;

thence South 89 degrees 55 minutes 30 seconds East, 230.01 feet;

thence South 00 degrees 00 minutes 30 seconds West, 56.83 feet to a point of curvature of a circular curve concave Northeasterly, having a radius of 24.00 feet and a central angle of 89 degrees 26 minutes 32 seconds;

thence along the arc of said curve, 37.47 feet to a point of tangency;

thence South 89 degrees 26 minutes 02 seconds East, 124.98 feet;

thence North 89 degrees 13 minutes 00 seconds East, 220.17 feet;

thence South 89 degrees 45 minutes 47 seconds East, 202.21 feet;

thence South 02 degrees 37 minutes 44 seconds West, 119.16 feet to a point on a curve having a radius that bears South 15 degrees 35 minutes 13 seconds West, 319.23 feet distant and a central angle of 10 degrees 02 minutes 47 seconds;

thence Southeasterly along said curve, 55.97 feet to a point of tangency;

thence South 64 degrees 22 minutes 00 seconds East, 117.75 feet;

thence South 88 degree 22 minutes 00 seconds East, 71.10 feet to a line parallel with and 148.39 feet Westerly from the West line of SUNSET KNOLL, UNIT THREE, a subdivision according to Book 88 of Maps, page 23, records of Maricopa County, Arizona;

thence North 01 degrees 38 minutes 00 seconds East, along said parallel line 445.08 feet to the South line of the North 25 feet of said Lot 4;

thence North 89 degrees 53 minutes 30 seconds West, along said South line, 1022.44 feet;

thence South 45 degrees 36 minutes 55 seconds West, 17.12 feet to a point lying South 37 feet from the North line of said Lot 4;

thence South 01 degrees 07 minutes 20 seconds West, along the East line of the West 40 feet of said Lot 4, a distance of 163.01 feet to THE TRUE POINT OF BEGINNING.

EXHIBIT “B”

Private Sewer Operation and Maintenance Manual