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DKT 15297 PG 98

RECORDING REQUESTED BY:

Storey & Ross
2100 N. Central Avenue,
Suite 110
Phoenix, Arizona 85004

Attention: David.W. Kreutzberg

WHEN RECORDED MAIL TO:

(Same as above)

191665

PROP RSTR (PR)

DECLARATION OF
HORIZONTAL PROPERTY REGIME AND
COVENANTS, CONDITIONS AND RESTRICTIONS
UNION HILLS CONDOMINIUMS
MARICOPA COUNTY, ARIZONA

JUN 9 - 1981 - 3 15

STATE OF ARIZONA }
County of Maricopa } ss

I hereby certify that the with-
in instrument was filed and re-
corded at request of

CHICAGO TITLE INSURANCE COMPANY

in Docket 15297
on page 98-148

Witness my hand and official
seal the day and year aforesaid.

Bill Henry

County Recorder

By *Jason Dina*
Deputy Recorder

2600

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DECLARATION OF
HORIZONTAL PROPERTY REGIME AND
COVENANTS, CONDITIONS AND RESTRICTIONS

UNION HILLS CONDOMINIUMS

MARICOPA COUNTY, ARIZONA

THIS DECLARATION, made on the date hereinafter set forth, by UNION HILLS, LTD., a California limited partnership ("Declarant"), is made with reference to the following facts:

A. Declarant is the owner of a certain tract of land located in the County of Maricopa, State of Arizona, more particularly described in Exhibit A attached hereto and incorporated by reference. The property described in Exhibit A, together with any property annexed thereto under this Declaration, shall be referred to herein as the "Property".

B. Declarant has improved or intends to improve the Property by subdividing and constructing thereon certain residential improvements and recreational facilities, and desires to submit and subject the Project to a Horizontal Property Regime pursuant to Arizona Revised Statutes, Section 33-551 through 33-561, as same may be amended. Unofficial Document

C. The development shall be referred to as the "Project". The Owner of each Unit shall receive title to his individual condominium Unit, plus an undivided 1/28 interest as tenant in common in the Common Area, subject to the reallocation provisions of Article 2.5 below. Each Unit shall have appurtenant to it a membership in the CONDOMINIUM ASSOCIATION.

D. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the said Units and the Owners thereof.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and the Project, and every part thereof, in accordance with the plan for the improvement of the Property and the division thereof into condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the Property or the Project.

ARTICLE 1

DEFINITIONS

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

1.2 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the Property which is to be paid by each Unit Owner as determined by the Association.

1.3 "Association" shall mean and refer to the UNION HILLS CONDOMINIUM ASSOCIATION, an Arizona nonprofit corporation, the members of which shall be the Owners of Units in the Project.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

1.6 "Common Area" shall mean and refer to those portions of the Property of which title is held by all of the Owners as tenants in common, including the Unofficial Document Recreational Common Area and the Limited Common Area, but excluding the individual condominium Units as defined herein. The Common Area includes, without limitation: land; interior and exterior parking and driveway areas; stairs; bearing walls, columns, girders, subfloors, unfinished floors, roofs, and foundations; central heating and chutes, conduits, pipes, plumbing, wires and other utility installations (except the outlets thereof when located within the Unit) required to provide power, light, telephone, gas, water, sewage, drainage, heat, air-conditioning and elevator service; sprinklers, sprinkler pipes, and sprinkler heads which protrude into the airspace of the condominium Unit; central television antenna, if any; and all facilities and improvements located within the Recreational Common Area.

1.7 "Common Expenses" means and includes the actual and estimated expenses of operating the Property and the Association and any reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the Project Documents.

1.8 "Common Interest" means the proportionate undivided interest in the Common Area which is appurtenant to each Unit as set forth in this Declaration.

1.9 "Condominium" shall mean an estate in real property consisting of title to a Unit within the Horizontal Property Regime hereby established and a 1/28 undivided interest in the Common

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Area, subject to the reallocation provisions of Article 2.5 below. The ownership of each Condominium shall include (1) the ownership of a Unit; (2) a 1/28 undivided interest in the Common Area, subject to the reallocation provisions of Article 2.5 below; (3) exclusive use of the portion of the limited Common Area appurtenant to that Unit; (4) a non-exclusive right to use the Recreational Common Area; and (5) membership in the Association. Each Unit shall be a separate freehold estate consisting of the cubic space described and defined in Article 2 hereof.

1.10 "Condominium Building" shall mean a residential structure containing condominium Units.

1.11 "Condominium Plan" shall mean and refer to the recorded diagrammatic floor plan or plans of the Units built or to be built on the Property which identifies each Unit and shows its dimensions as set forth on the Map.

1.12 "Declarant" shall mean and refer to UNION HILLS, LTD., a California limited partnership, and its successors and assigns, but shall not include members of the public purchasing completed condominium Units.

1.13 "Declaration" shall mean and refer to this enabling Declaration. Unofficial Document

1.14 "Institutional Lender" shall mean any bank, savings and loan association, insurance company, or other financial institution holding a recorded first mortgage on any Unit.

1.15 "Limited Common Area" shall mean and refer to those portions of the Common Area set aside for exclusive use of a Unit Owner or Owners, pursuant to Article 2 hereof.

1.16 "Map" shall mean and refer to that subdivision map recorded JUNE 5, 1981, in Book 233, Page 10 ~~through~~ inclusive of Official Records of Maricopa County, Arizona, and any subsequently recorded subdivision map and all amendments thereto, which cover the Property or a portion thereof. The map is hereby made a part hereof with the same force and effect as if incorporated herein at length.

1.17 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

1.18 "Mortgage" shall include a deed of trust as well as a mortgage.

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1.19 "Mortgagee" shall include the beneficiary or a holder of a deed of trust as well as a mortgagee.

1.20 "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

1.21 "Owner" or "Owners" shall mean and refer to the record holder or holders of title of a Unit in the Project. This shall include any person having a fee simple title to any Unit, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Unit is sold under a recorded contract of sale to a purchaser who resides in the Unit, the resident purchaser, rather than the fee owner, shall be considered the "Owner" as long as he resides in the Unit as a contract purchaser.

1.22 "Person" means a natural person, a corporation, a partnership, a trustee or other legal entity.

1.23 "Phase" shall mean and refer to a particular parcel of property which is or shall become part of the Project pursuant to the recordation of an appropriate Declaration of Annexation. The property described in Exhibit A to this Declaration shall be deemed to be the first phase of the Project and any parcel annexed to the property described in Exhibit A under a Declaration of Annexation shall be deemed Unofficial Document to be a subsequent phase of the Project.

1.24 "Project" shall mean and refer to the entire Property including all structures and improvements erected or to be erected thereon, and including all phases thereof.

1.25 "Project Documents" means and includes this Declaration as it may be amended from time to time, the exhibits, if any, attached hereto, the Condominium Plan, Map, the Articles and By-laws of the Association, and the rules and regulations for the Members as established from time to time.

1.26 "Property" or "Properties" means and includes the real property covered by this Declaration (including property annexed pursuant to this Declaration) and all improvements erected thereon and all property, real, personal or mixed, intended for or used in connection with the Project.

1.27 "Recreational Common Area" shall mean and refer to the area or areas so designated on the Condominium Plan or Map and all improvements erected thereon. The Recreational Common Area shall be part of the Common Area, and as such shall be owned by all Unit Owners as tenants in common.

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1.28 "Unit" shall mean and refer to the elements of an individual condominium, as defined in Article 2, which are not owned in common with the Owners of other condominiums in the Project.

1.29 "Unit designation" means the number, letter, or combination thereof or other official designation shown on the Condominium Plan.

End of Article 1 Entitled
Definitions

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ARTICLE 2

Description of Project, Division of Property,
and Creation of Property Rights2.1 Description of Project

The Project consists of the underlying Property with the residential Units and all other improvements located or to be located thereon and includes all phases annexed pursuant to this Declaration. The cubic content space of the buildings within the Project with reference to their location on the land, and the cubic content space of each Unit within the buildings is described on the Condominium Plan.

2.2 Division of Property

The Property is hereby divided into the following freehold estates and areas:

2.2.1 Dwelling Units

Each of the Units as separately shown, numbered and designated on the Condominium Plan is bounded by and contained within the interior finished Unofficial Document surface of the perimeter walls, floors and ceilings of each Unit, and also includes all windows, doors, and electrical outlets located in the perimeter walls thereof. Each Unit includes both the portions of the building so described or contained within such boundaries, and the air-space so encompassed. Each Unit also includes as an appurtenance thereto: (1) the adjacent area encompassing a patio or balcony, if any, as the case may be, the lower boundary of which shall be the finished floor surface thereof the elevation of which is equal to the lower elevation of the Unit to which it is appurtenant, the upper elevation of which shall be a horizontal plane parallel to the floor surface at an elevation equal to the upper elevation of the Unit to which it is appurtenant, and the side boundaries of which shall be vertical planes extending upward from the outside edges of the floor surface, but not including any exterior wall bounding such patio or balcony area (but including the interior finished surface of any such walls); and, (2) an exclusive (except as against the Association) easement to use for vehicle parking purposes, the parking space specifically designated in the Condominium Plan or assigned by the Declarant or Board to the Owner as being appurtenant to and included with that Unit. The square footage and cubic content of each Unit and its appurtenant patio or balcony can be independently determined from the Condominium Plan. The parking area and garage or carport structures are to

be maintained by the Association and are Common Areas and the Association shall have access thereto at all times for the maintenance, replacement and repair thereof. The Unit does not include those areas and those things which are defined as "Common Area" below. Each Unit is subject to such encroachments as are now contained in the building of which the Unit is a part. In interpreting deeds and plans, the then existing physical boundaries of a Unit, whether in its original state or reconstructed substantially in accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed, and those of the building.

2.2.2 Common Area

The remaining portion of the Property, referred to herein as "Common Area" shall include all of the elements set forth in Article 1.6. Each Unit Owner shall have, as appurtenant to his Unit, a 1/28 undivided interest in the Common Area, subject to the reallocation provisions of Article 2.5 below. The common interest appurtenant to each Unit is declared to be permanent in character and cannot be altered without the consent of all the Unit Owners and the first mortgagees of such Unit Owners, as expressed in an amended declaration, subject to the terms and provisions of Article 9.5.3 herein. Such common interest cannot be separated from the Unit to which it is appurtenant. Each Unit Owner shall have a non-exclusive right to use the Common Area in accordance with the purposes for which it is intended without hindering the exercise of or encroaching upon the rights of any other Unit Owners. Notwithstanding the transfer of the Common Area to the Unit Owners as tenants in common, the Declarant shall reserve and hereby reserves in itself and its successors and assigns, as long as there are two classes of membership in the Association, an easement over and onto the Common Area for common driveway purposes, for drainage and encroachment purposes and for ingress to and egress from the Common Area for the purpose of completing improvements thereon or for the performance of necessary repair work and for entry onto adjacent Property in connection with the development of additional phases of the Project.

2.2.3 Limited Common Area

Portions of the Common Area referred to as "Limited Common Area" are hereby set aside and allocated for the exclusive use of the Owners of individual Units. The rights of an individual Owner in the Limited Common Area shall consist of:

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(1) an exclusive easement to use for vehicle parking purposes, the parking space or spaces specifically assigned by Declarant or the Board to the Owner or designated on the Condominium Plan or Map as being appurtenant to that Unit (except that where a garage area is enclosed and attached to a Unit, that area shall be a part of the Unit as defined in this Declaration);

(2) an exclusive easement to use the storage space, if any, specifically assigned by Declarant or the Board to the Owner or designated on the Condominium Plan or Map as being appurtenant to that Unit;

(3) an exclusive easement for ingress and egress over and for the use and enjoyment of the exterior stairs and landing area adjacent and appurtenant to the Unit (provided, however, that such easement shall be shared with any other Unit to which such stairs and landing area are also adjacent and appurtenant);

(4) for first story units, an exclusive easement to use and enjoy the yard area, if any, designated by Declarant as Limited Common Area for that Unit pursuant to Article 2.10, together with the interior finished surface of the fence or wall which encloses said yard area. The Unit Owner shall not disturb the level surface of the yard area described above, except for ordinary and reasonable landscaping, without the approval of the Architectural Control Committee, and the use of said yard shall be subject to the restrictions set forth in this Declaration for the use of patios. Unofficial Document

This right of exclusive use shall be, and is hereby declared to be, an appurtenance to the ownership of the Unit. While the right to use at least one parking space, and storage area if any, is declared to be an appurtenance to ownership of the Unit, unless a specific assignment is made by the Condominium Plan or Map no right to a particular parking space and storage area is being created hereby, it being the intent that reasonable re-assignments of parking spaces and storage areas, reasonably convenient to the Unit Owners to which they are assigned, may be made by the Declarant or subsequently by the Board.

The use of the parking spaces assigned to the Units referred to above, as well as all other parking spaces, and storage areas if any, shall be subject to the reasonable rules and regulations of the Board.

2.2.4 Recreational Common Area

That portion of the Property designated on the Condominium Plan or Map as "Recreational Common Area", if any, shall be part of the Common Area, and as such shall be owned by all Unit Owners as tenants in common. The Recreational Common Area shall be operated and maintained by the Association for the use and benefit of Owners of Units in the Project, subject to reasonable rules and regulations enacted according to the Bylaws.

2.3 No Separate Conveyance of Undivided Interests

The foregoing interests and exclusive easements are hereby established and are to be conveyed only with the respective Units, and cannot be changed, except as herein set forth. Declarant, its successors, assigns and grantees covenant and agree that the undivided interests in the Common areas, the exclusive easements of the Limited Common Areas, and the fee title to the respective Units conveyed therewith, shall not be separated or separately conveyed, and each such undivided interest and exclusive easement 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 fee title to the Unit.

2.4 Partition Prohibited

The Common Area shall remain undivided as set forth above. Except as provided by Arizona Revised Statutes section 33-560, or by an applicable successor statute and subject to the terms and provisions of Article 10.5.3 herein, no Owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Unit owned by two or more persons and division of the sale proceeds is not prohibited hereby (but partition of title to a single Unit is prohibited).

2.5 Annexation of Additional Parcels

Additional parcels may be annexed to the Property and become subject to this Declaration by either of the following methods:

2.5.1 Annexation Pursuant to Plan

The Property described in Exhibit B, or any portion thereof, may be annexed to and become a part of the Project, subject to this Declaration, and subject to the jurisdiction of the Association, without the assent of the Association or its Members, on condition that:

2.5.1.1 Any annexation pursuant to this Subarticle shall be made prior to three (3) years from the date of the recording of this Declaration.

2.5.1.2 A Declaration of Annexation shall be recorded by Declarant covering the applicable portion of the Property to be annexed. Said Declaration shall incorporate this Declaration by reference and shall contain an appro-

prate statement reallocating the Unit Owners' undivided interest in the Common Area of the prior and subsequent phases as provided below.

2.5.1.3. Any annexation pursuant to this Section, prior to the effective date of said annexation, shall be approved by the Federal Housing Administration (FHA) or Veterans Administration (VA) upon its determination that the annexation is in accordance with the general plan heretofore approved by it.

2.5.1.4. All improvements included or to be included within the added property shall be consistent with the initial improvements in the prior phase in terms of quality of construction, and Declarant shall build the subsequent phase, as well as the prior phase, in accordance with the plans for the total development, supported by detailed plats and plants, approved by the Federal Housing Administration (FHA) or Veterans Administration (VA).

2.5.1.5. The minimum number of Units in the Project, to be constructed on the property described on Exhibit A attached hereto, shall be twenty-eight (28) Units and the maximum number of Units shall be sixty-seven (67) Units to be constructed in two phases, with the first phase consisting of the property described in Exhibit A and the second phase consisting of the property described in Exhibit ^B.

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2.5.2 Annexation Pursuant to Approval

Upon the vote or written assent of Declarant (while Declarant is an Owner) and of two-thirds (2/3) of the total votes residing in Members of the Association other than Declarant, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may record a Declaration of Annexation in the manner described in the preceding Subarticle. So long as there is Class B Membership in the Association no such annexation shall occur without the prior approval of the Federal Housing Administration or Veterans Administration.

Upon annexation of a new phase, the annexed parcel shall become subject to this Declaration without the necessity of amending individual sections hereof, and the Common Area described herein and the Common Area of the new phase as described in the Declaration of Annexation and the Map described therein shall be merged. Each unit Owner in the Project as increased and augmented by the addition of the new phase will have an undivided interest in the Common Area in the entire Project, including the Common Area in the new phase, equal to a fraction, the numerator of which shall be the number "1" and the denominator of which shall be the number of Units in the Project including the Units in the new phase.

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The rights of Unit Owners to access and use of Common Area, Limited Common Area, and Recreational Common Area in the Project, including those areas in the new phase, shall be as provided in this Declaration. All Unit Owners in the new phase shall become members of the Association upon the recording of the Declaration of Annexation. Declarant hereby reserves to itself, its successors and assigns, the right to, and agrees that it will, grant to the Owners of Units in any new or pre-existing phase, the non-exclusive easements for ingress, egress, use and enjoyment described in this paragraph.

2.6 Veterans Administration approval

The horizontal property regime or Project may not be amended or merged with a successor horizontal property regime or Project without prior written approval of the Veterans Administration.

2.7 Liens, Taxes or Assessments on Property Annexed By Declarant

All taxes, assessments, mechanic's liens, and other charges affecting the Property described in Exhibit B, covering any period prior to the annexation of said Property pursuant to Article 2.5.1, shall be paid or otherwise provided for by Declarant in a manner satisfactory to the Federal Housing Administration or Veterans Administration before the annexation of said Property may occur so that any liens arising in connection with Declarant's ownership of, and construction of improvements upon said Property will not adversely affect the rights of existing Unit Owners or the priority of first mortgages on Units constructed on the Property described in Exhibit A.

2.8 Insurance To Be Provided By Declarant

Prior to annexing Property pursuant to Article 2.5.1, Declarant shall purchase at Declarant's own expense, a liability insurance policy in an amount determined by the Federal Housing Administration or the Veterans Administration to cover any liability to which Owners of Units constructed on the Property described in Exhibit A might be exposed by reason of the annexation of the Property described in Exhibit B or the construction of improvements thereon. This policy shall be endorsed "as owner's interest might appear."

2.9 De-annexation of Parcels

Any parcel annexed to the Property pursuant to the plan of Declarant, in accordance with Subarticle 2.5.1 above, may be de-annexed by Declarant and removed from the Project and the jurisdiction of this Declaration and the Association at any time by the recordation of an appropriate Declaration of De-annexation; provided that such de-annexation shall take place (1) with the consent of the Federal Housing Administration or Veterans Administration; (2) before any Unit in the annexed parcel has been sold by Declarant to a member of the general public; (3) before any

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vote has been exercised on behalf of any such Unit; and (4) before any such Unit has incurred any assessment obligation to the Association.

2.10 Yard Area For First Story Units

For each first story Unit in the Project, until Declarant conveys title to said Unit to another Owner, and without further approval or authorization of any kind or nature, Declarant shall be entitled, but not obligated, to designate yard areas as Limited Common Area appurtenant to that Unit pursuant to Article 2.2.3(4), provided that such designation shall comply with the following requirements. No such yard area for any Unit shall extend, in any direction or at any angle, more than fifteen (15) feet beyond any edge of the patio for that Unit as designated on the Condominium Plan, and Declarant shall designate the yard area which is to be Limited Common Area for that Unit by filing a Notice thereof, which shall include the specific dimensions or a drawing thereof, in the records of the Association not later than the time escrow closes for the sale of that Unit and by constructing the fence or wall for the patio for that Unit so as to include within the patio area for that Unit the yard area which is Limited Common Area for that Unit. After yard area has been designated as Limited Common Area for a particular Unit in the manner described above, no person or entity, including but not limited to the Declarant and Association, shall have the right or ability to modify, decrease or increase the size, location or area of the yard area which is Limited Common Area for the Unit. Once escrow closes for the sale of any Unit by Declarant to another Owner, Declarant's right to designate yard area as Limited Common Area for that Unit shall absolutely terminate.

End of Article 2 Entitled
Description of Project, Division of Property, and
Creation of Property Rights

ARTICLE 3

Association, Administration, Membership and Voting Rights3.1 Association to Manage Common Area

The management of the Common Area shall be vested in the Association in accordance with the Bylaws. The Owners of all the Units covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles, and the Bylaws of the Association, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project.

3.2 Membership

The Owner of a Unit shall automatically, upon becoming the Owner of same, be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

3.3 Transferred Membership

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Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Unit to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

3.4 Classes of Membership

The Association shall have two (2) classes of voting membership established according to the following provisions:

3.4.1 Class A Membership

Class A Membership shall be that held by each Owner of a Unit other than Declarant and each Class A Member shall be entitled to one (1) vote for each Unit owned. If a Unit is owned by more than one (1) person, each such person shall be a Member of the Association, but there shall be no more than one vote for each Unit.

3.4.2 Class B Membership

Class B Membership shall be that held by Declarant (or its successor) who shall be entitled to three (3) votes for each Unit owned by Declarant; provided that Class B Membership shall be converted to Class A Membership on the occurrence of whichever of the following is first in time:

3.4.2.1 The total outstanding votes held by Class A Members equal the total outstanding votes (tripled as above) held by the Class B Member; or

3.4.2.2 The fifth anniversary of the conveyance by Declarant of legal or equitable title to any Unit to an individual Condominium buyer.

For purposes of determining the above conversion of Class B Membership to Class A Membership, the votes of the Members shall be calculated as though there were sixty-seven (67) Units in the Project, said sixty-seven (67) Units being the planned total of the two phases of the Project with the voting rights of all sixty-seven (67) Units allocated to Declarant except for the voting rights for Units which vest or have vested in other Unit Owners; provided, however, that if construction of the second phase is not substantially started within two years following the issuance of the original ^{Unofficial Document} Arizona public report for the first phase, Class B Membership shall thereafter be converted to Class A Membership under Section 3.4.2.1. above on the basis that there are twenty-eight (28) Units in the Project entitled to voting rights with Declarant entitled to the voting rights of such of those twenty-eight (28) Units for which voting rights have not vested in other Unit Owners.

3.5 Voting Requirements

Any action by the Association which must have the approval of the Association membership before being undertaken shall require the vote or written consent of 51% of the membership unless another percentage is specifically prescribed by a provision within this Declaration, or the Bylaws or Articles of the Association.

3.6 Commencement of Voting Rights

Voting rights attributable to any Unit not owned by Declarant shall not vest until an assessment has been levied against that Unit by the Association, pursuant to Article 4, below. Voting rights attributable to all Units owned by Declarant shall vest immediately by virtue of Declarant's ownership thereof.

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3.7 Membership Meetings

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

3.8 Board of Directors

The affairs of the Association shall be managed by a Board of Directors, which shall be established, and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

End of Article 3 Entitled
Association, Administration, Membership and Voting Rights

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ARTICLE 4

Maintenance and Assessments4.1 Creation of the Lien and Personal Obligations of Assessments

Each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) regular annual assessments or charges, and (2) special assessments for capital improvements and unexpected expenses; such assessments to be established and collected as provided herein and in the Bylaws of the Association. The annual and special assessments and any other charge made on a Unit pursuant to this Declaration and the Bylaws, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Unit against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Unit at the time when the assessment fell due. No Owner of a Unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Unit.

4.2 Purpose of Assessments

The assessments by ^{Unofficial Document} the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement and maintenance of the Common Area and for the common good of the Project. Annual assessments shall include an adequate reserve fund for taxes, insurance, maintenance, repairs and replacement of the Common Area.

4.3 Annual Assessments

The Board shall annually determine and fix the amount of the annual (calendar year) assessment against each Unit including those owned by Declarant, and shall notify the owner of each Unit in writing as to the amount of such annual assessment not less than 45 days prior to the date that such assessment is to commence. Except as to the first annual assessment, the annual assessment may not be increased above an amount consistent with the percentage increase, if any, in the Consumer Price Index-United States City Average for Urban Wage Earners and Clerical Workers-All Items (published by the Department of Labor, Washington, D.C.), for the year ending with the preceding July (or a similar Index chosen by the Board if the above described Index is no longer published), nor decreased by more than twenty percent (20%) below the annual assessment for the

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previous year, without the affirmative vote of two-thirds (2/3) of the members of each class of the Association membership voting in person or by proxy, at a meeting duly called for this purpose. All annual assessments shall be payable in twelve equal monthly installments. In the year prior to January 1 of the year immediately following the close of escrow on the sale of the first Unit in the Project, the maximum annual assessment per Unit shall be \$720.00, the annual assessment shall be prorated based on the number of months remaining before January 1 of such year, as well as any partial months remaining, and said sum shall be payable in monthly installments of \$60.00. Notwithstanding anything to the contrary stated in this Article, until Class B Membership is terminated pursuant to Section 3.4.2 above, Declarant shall be obligated to pay only twenty five percent (25%) of the annual assessment amount fixed for Units pursuant to Article 4.3, and shall pay said percentage of the annual assessment amount in twelve equal installments in the same manner established for payment of the annual assessment amount by other Unit Owners.

4.4 Special Assessments

In addition to the regular annual assessments authorized above, the Board may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense normally covered by a regular assessment (and, where necessary, for taxes assessed against the Common Area); provided, however, that no such special assessment shall be made without the affirmative vote of two-thirds (2/3) of each class of the membership voting in person or by proxy, at a meeting duly called for this purpose.

4.5 Notice and Quorum for any Action Authorized Under Articles 4.3 and 4.4

Written notice of any meeting called for the purpose of taking any action authorized under Articles 4.3 or 4.4 shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies therefor entitled to cast sixty percent (60%) of all the votes of each class of Membership 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 (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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4.6 Allocation of Assessments

Except as provided in Article 4.3 above, the Owners of each Unit shall bear an equal share of each regular and special assessment.

4.7 Date of Commencement of Annual Assessment; Due Dates

The regular annual assessments provided for herein shall commence as to all Units in the Project on the first day of the month following the close of escrow on the sale of the first Unit. Regular annual assessments shall commence as to all Units on any parcel annexed to the Project pursuant to this Declaration on the first day of the month following the completion of said annexation. Due dates of assessments shall be established by the Board and notice shall be given to each Unit Owner at least forty-five (45) days prior to any due date; provided that if assessments are to be due on a monthly basis, no notice shall be required other than an annual notice setting forth the amount of the monthly assessment and the day of each month on which each assessment is due.

4.8 Transfer of Unit by Sale or Foreclosure

Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or deed in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer (except for assessment liens recorded prior to the mortgage). No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof. Where the mortgagee of a first mortgage of record obtains title to a Unit as a result of foreclosure of any such first mortgage or deed in lieu thereof, such mortgagee shall not be liable for the share of the common expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such mortgagee. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Units including such mortgagee. A voluntary conveyance of a Unit to a grantee shall not in any way extinguish or diminish the effectiveness of a lien for unpaid assessment up to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee to remove said lien. Any such grantee shall be entitled to a statement from the Association setting forth the amount of unpaid assessments due to the Association and the lien for unpaid assessments at the time of conveyance shall not exceed the amount set forth in the statement; provided, however, the grantee shall be liable for any such assessment becoming due after the date of any such statement.

4.9 Enforcement of Assessment Obligation; Priorities; Discipline

Any part of any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of ten percent (10%) per annum from the due date until paid. The assessment lien on each respective Unit shall be prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such assessment, in accordance with the provisions of Arizona Revised Statutes Section 33-721 - 33-730, applicable to the exercise of powers of sale in mortgages or deeds of trust, or in any other manner permitted by law; however, the right to foreclose the same shall be in addition to and not in substitution of all of the rights and remedies which the Association and Board may have in accordance with the provisions of this Declaration or otherwise. The Association, acting on behalf of the Unit Owners, shall have the power to bid for the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. In the event the Owner against whom the original assessment was made is the purchaser or redemptor Unofficial Document the lien shall continue in effect and the said lien may be enforced by the Association, or by the Board for the Association, for the respective Unit's assessment that was due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid assessment shall continue to exist as a personal obligation of the defaulting Owner of the respective Unit to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a member of the Association. Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may temporarily suspend the Association voting rights and/or right to use recreational facilities of a Unit Owner who is in default in payment of any assessment.

4.10 Unallocated Taxes

In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Units, said taxes shall be included in the assessments made under the provisions of this Article, and, if necessary, a special assessment may be levied against all of the Units in an amount equal to said taxes, on a pro rata basis equal to the percentage interest in the Common Area which is appurtenant to each Unit.

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4.11 Tax Assessments

As provided in Arizona Revised Statutes Section 33-558, no taxes, assessments or charges which may become liens on any Unit prior to any first mortgage under Arizona laws, shall affect the Common Area as a whole; such taxes, assessments or charges shall only be levied separately on each Unit in its respective appurtenant percentage share of the Common Area.

End of Article 4 Entitled
Maintenance and Assessments

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ARTICLE 5

Duties and Powers of the Association5.1 Duties and Powers

In addition to the duties and powers enumerated in the Bylaws and the Articles, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

5.1.1 Maintain, repair, replace, restore, operate and manage all of the Common Area, Limited Common Area and all facilities, improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association in good condition. This obligation shall not extend to the maintenance of any portion or facility of the Common Area required to be maintained by an individual Owner under this Declaration or the Bylaws.

5.1.2 Enforce the provisions of this Declaration by appropriate means, including without limitation, the expenditures of funds of the Association, the employment of legal counsel and the commencement of legal actions.

5.1.3 Maintain (Unofficial Document) policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members.

5.1.4 Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and the Units.

5.1.5 Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.

5.1.6 Adopt reasonable rules not inconsistent with this Declaration, the Articles, or the Bylaws relating to the use of the Common Area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the Property and other Owners.

5.2 Maintenance of Project by Association

The Association shall provide maintenance of the Project as provided herein and in the Bylaws. Notwithstanding anything herein, the Association shall not be responsible for maintaining and repairing any air conditioning, cooling or heating unit or appliance which serves only one Unit and the Owner of the Unit

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served by that unit or appliance shall be solely responsible therefor. The Association shall not be responsible for maintaining and repairing capital improvements built or placed by an Owner on or within his Unit or within the patio or yard space or repairs or replacements caused by any of the perils covered by a standard form fire insurance policy with extended coverage endorsement thereon, including, but not limited to, glass surfaces. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner, or his guests, tenants or invitees. The repair or replacement of any portion of the Common Area or Limited Common Area resulting from such excluded items shall be the responsibility of each Owner; provided, however, that if an Owner shall fail to make the repairs or replacements which are the responsibility of such Owner, the Association, acting through the Board, shall have the right (but not the obligation) to enter the Unit and make such repairs or replacements, and the cost thereof shall be added to the assessments chargeable to such Unit and shall be payable to the Association by the Owner of such Unit.

5.3 Maintenance of Project by Declarant

Until Class B Membership is terminated pursuant to Section 3.4.2 above, Declarant shall be responsible for the prompt payment on a current basis of all costs and expenses related to maintenance and repair of the Unofficial Document Area as required in Articles 5.1 and 5.2 in the event and to the extent that the funds available to the Association are inadequate for payment of such costs and expenses on a current basis. Declarant's failure to perform the requirements contained in this Article 5.3 shall constitute a default under this Declaration entitling any Unit Owner or first mortgagee to record a notice of lien against Declarant's property interest in the Project to enforce the provisions of this Article. Prior to the termination of Class B Membership, Declarant shall establish a working capital fund for the Association for the initial months of the Project operations equal to at least two months' estimated monthly assessments for each Unit.

5.4 Association Easements and Access to Units

For the purpose of performing the maintenance authorized by this Article or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an easement over and onto all portions of the Common Area, and shall also have the right, after reasonable notice to the Owner, and at reasonable hours, to enter any Unit.

5.5 Custodian Unit

The Association shall have the power and authority with the vote or written consent of a majority of each class of Members, to purchase a Unit (the "Custodian Unit") to be occupied by the custodian of the Project. In such case, during the period the Custodian Unit is owned by the Association:

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5.5.1 No right to vote shall be exercised on behalf of the Custodian Unit;

5.5.2 No assessment shall be assessed or levied on the Custodian Unit; and

5.5.3 Each other Unit Owner shall be charged, in addition to his usual assessment, his share of the assessment that would have been charged to the Custodian Unit, but for the provisions of this Subarticle.

End of Article 5 Entitled
Duties and Powers of The Association

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ARTICLE 6

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Utilities6.1 Owners' Rights and Duties

The rights and duties of the Owners of Units within the Project with respect to utilities shall be as follows:

6.1.1 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections, heating or air-conditioning conduits, ducts, or flues are located or installed within the Project, which connections, or any portion thereof lie in or upon Units owned by other than the Owner of a Unit served by said connections, the Owners of any Units served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Units or to have the utility companies enter upon the Units in or upon which said connections, or any portion thereof lie, to repair, replace and generally maintain said connections as and when necessary. An Owner or utility company exercising its right of entry pursuant to this Article shall give reasonable notice to the Owner of a Unit prior to entering therein.

6.1.2 Whenever sanitary sewer, water, electric, gas, television receiving, or tel^(Unofficial Document) lines or connections, heating or air-conditioning conduits, ducts, or flues are located or installed within the Project, which connections serve more than one Unit, the Owner of each Unit served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Unit.

6.1.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board, which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

6.2 Easements for Utilities and Maintenance

Easements over and under the Common Area for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, and telephone lines and facilities, heating and air-conditioning facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown on the Map of the Property and as may be hereafter required to service the Property, are hereby reserved for the Association, and its successors and assigns, together with the right to grant and transfer the same.

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6.3 Association's Duties

The Association shall maintain all utility installations located in the Common Area except for those installations maintained by utility companies, public, private, or municipal. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Units, which shall be paid by the respective Owners of those Units.

End of Article 6 Entitled
Utilities

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ARTICLE 7

Use Restrictions

In addition to all of the covenants contained herein, the use of the Property and each Unit therein is subject to the following:

7.1 Use of Individual Units

No Unit shall be occupied and used except for single family residential purposes by the Owners, their tenants, and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns, may use any Unit or Units in the Project owned by Declarant for a model home site or sites and display and sales office during construction and until the last Unit in the entire Project is sold.

7.2 Nuisances

No noxious, illegal, or offensive activities shall be conducted in any Unit, or on any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his respective Unit, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building. Any increase in the insurance premiums for the Project caused by an Owner shall be paid for by such Owner.

7.3 Vehicle Restrictions

No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pickup truck) inoperable automobile, boat or similar equipment shall be permitted to remain upon any area within the Property, other than temporarily (for purposes of loading and unloading of passengers or personal property), unless placed or maintained within an enclosed garage or carport, or in an area specifically designated for such purpose by the Board. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property. No off-road licensed or unlicensed motor vehicles shall be maintained or operated upon the Property, except as reasonably necessary to the execution of the rights or duties of the Association under this Declaration.

7.4 Signs

Signs advertising Units for sale or rent may be displayed on the Property, provided that such signs shall be of reasonable and customary size and shall be displayed only at such location or locations within the Common Area as shall be designated for such purpose by the Board. Except as expressly permitted by this Subarticle 7.4, no signs shall be displayed to the public view on any Units or on any portion of the Property, unless first approved by the Board or the Architectural Control Committee.

7.5 Animals

No animals or birds of any kind shall be raised, bred, or kept in any Unit, or on any portion of the Property; except that usual and ordinary household pets such as dogs, cats or birds may be kept, provided that they are kept under reasonable control at all times, and provided that no more than one dog or cat shall be kept in any Unit at any time. The Board may enact reasonable rules respecting the keeping of such animals within the Project and may designate certain areas in which such animals may be taken. The Association, by and through the Board, reserves the right to have such pets removed if the pets' behavior becomes objectionable to the members of the Association, which right shall not be unreasonably applied.

7.6 Garbage and Refuse Disposal

All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment, garbage cans, woodpiles, or storage piles shall be kept screened and concealed from view of other Units, streets and the Common Area.

7.7 Radio and Television Antennas

No alteration to or modification of a central radio or television antenna system or cable television system, whichever is applicable, if any, shall be permitted, and no Owner may be permitted to construct, use, or operate his own external radio or television antenna without the consent of the Board.

7.8 Right to Lease

The respective Units shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than 30 days, or (b) any rental if the occupants of the Unit are provided customary hotel service such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Subject to the

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foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Units provided that the lease is made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the By-laws, and any reasonable rules and regulations published by the Association.

7.9 Clothes Lines

No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes.

7.10 Power Equipment and Car Maintenance

No power equipment, work shops, or car maintenance (other than emergency work or minor repairs requiring less than one (1) day's work) shall be permitted on the Property except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

7.11 Liability of Owners for Damage to Common Area

The Owner of each Unit shall be liable to the Association for all damages to the Common Area or improvements thereon caused by such Owner or any Unofficial Document t of his Unit or guest to the extent such owner is responsible therefor under the laws (statutory or case) of the State of Arizona.

7.12 Party Walls

Each wall, including patio walls, which is constructed as part of the original construction of a Condominium Building, any part of which is placed on the dividing line between separate Units, shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

In the event any party wall is damaged or destroyed through the act of one adjoining Owner or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner and the Association of the full use and the enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild and repair the same to as good a condition as formally existing without cost to the adjoining Owner or the Association. In the event any such party wall is damaged or destroyed through or from any other cause, the Association shall be responsible for rebuilding and repairing the same

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at its cost pursuant to Article 5.1 hereof.

In the event any party wall is exposed to the elements through the act of one adjoining Owner or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable), said Owner shall bear the whole cost of furnishing the necessary protection against such elements, but in the event any such party wall is exposed to the elements through any other cause, the Association shall furnish the necessary protection against such elements.

In addition to meeting the other requirements of this Declaration and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or repair his Unit in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

7.13 No Warranty of Enforceability

While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 7 or elsewhere 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 such restrictive covenant. Any Owner acquiring a Unit in the Project in reliance on one or more of such restrictive covenants shall assume all ^{Unofficial Document} risks of the validity and enforceability thereof, and, by acquiring the Unit agrees to hold Declarant harmless therefrom.

End of Article 7 Entitled
Use Restrictions

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ARTICLE 8

Architectural Control8.1 Prohibition of Alteration and Improvement

Subject to the exemption of Declarant under Article 8.3.2. and Article 9.10 below, no building, fence, wall, obstruction, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, improvement, or structure of any kind shall be commenced, erected, painted or maintained upon the Property, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by an Architectural Control Committee (the Committee) appointed by Declarant or elected by the Owners as provided in this Article. No kind of foil or darkening screen shall be placed upon the windows of the Units, nor shall the balconies or patios, if any, of the Units be used for storage purposes. Furthermore, no clothing, laundry, or other personal items are to be hung out on the balconies or patios of the Units. There shall be no construction, alteration or removal of any structure or improvement in the Project which would impair or affect the integrity or stability of any existing structure. No Owner shall install or replace an air conditioning unit without the prior written approval of the Committee, which shall have the right to approve or disapprove the size, shape, noise level and proposed location of such air conditioning unit.

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8.2 Plans and Approval

Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements or alterations, shall be submitted to the Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to rebuild in accordance with plans and specifications previously approved by the Committee. No landscaping of patios or yards visible from the street or from the Common Area shall be undertaken by any Owner until plans and specifications showing the nature, kind, shape, and location of the materials shall have been submitted to and approved in writing by the Committee. In the event the Committee fails to approve or disapprove such plans, specifications and proposed alteration or improvement within 45 days after said plans and specifications have been submitted to it, written approval by the Committee will not be required and this Article will be deemed to have been fully complied with.

8.3 Architectural Control Committee

The number, election and term of members of the Committee shall be as provided in the Bylaws, subject to the following limitations:

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8.3.1 There shall be three (3) members of the Committee.

8.3.2 Declarant may appoint all of the original members of the Committee who shall serve until they resign or they are replaced by the Board, in its sole discretion. All replacements shall be appointed by the Board. Subject to compliance by Declarant with the provisions of this Declaration and the requirements of the Veterans Administration and the Federal Housing Administration, the Committee shall have no jurisdiction over construction of the original units and other Project improvements in any phase of the Project.

End of Article 8 Entitled
Architectural Control

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ARTICLE 9

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General Provisions9.1 Enforcement

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court; provided, however, that an individual Owner shall have no right to enforce the collection of any assessment levied against any other Owner under Article 4 above. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

9.2 Invalidity of Any Provision

Should any provisions of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

9.3 Amendments

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Subject to the standards set forth in any applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project, and the rights of the Owners and Institutional Lenders provided herein, this Declaration may be amended only by the vote or written assent of seventy five percent (75%) or more of the total voting power of the Association, provided that no such amendment shall be effective until approved in writing by seventy five percent (75%) of the Institutional Lenders (based on one (1) vote for each mortgage or deed of trust owned) and further provided, however, that the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Until the first Unit is sold (or a contract for sale entered into), the Declarant shall have the unlimited right to amend this Declaration subject to the requirement to obtain the prior consent of the Federal Housing Administration or the Veterans Administration as provided below.

Declarant may alter the interior design of the Units, the size and boundaries between Units, and the percentage interest which Units bear to the entire Horizontal Property Regime at any time so long as (i) such altered Units are owned by Declarant; (ii) all Institutional Lenders then encumbering such altered Units agree in writing to such alterations, and (iii) such alterations do not modify or change the size, the boundaries, the percentage interest in and to the Common Area, or the share of the Common Expenses of any Units not owned by Declarant.

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Notwithstanding anything to the contrary contained in this Article 9.3 or any other Article in this Declaration, so long as there is Class B Membership as provided in Article 3.4 above, this Declaration shall not be amended without the approval of the Federal Housing Administration or the Veterans Administration.

9.4 Encroachment Easements

Each Unit within the Property is hereby declared to have an easement over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of buildings, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments over adjoining Units or Common Area shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

9.5 Mortgage Protection Clause

9.5.1 Rights of First Mortgages

9.5.1.1 No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning a mortgage with first priority over any other mortgage) on any Unit made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

9.5.1.2 All amenities pertaining to the Project and located on the Property (such as parking, recreation and service areas) are a part of the Project and shall be covered by and subject to a mortgage on a Unit to the same extent as are the Common Area.

9.5.1.3 Institutional Lender shall not in any case or manner be personally liable for the payment of any assessment or charge, nor the observance or performance of any covenant, restriction, regulation, rule, Association Articles of

Incorporation or Bylaws, or management agreement, except for those matters which are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as provided herein to the contrary.

9.5.1.4 An action to abate the breach of any of these covenants, restrictions, reservations and conditions may be brought against the purchasers who have acquired title through foreclosure of a first mortgage and the subsequent Sheriff's sale (or through any equivalent proceedings), and the successors in interest to said purchasers, even though the breach existed prior to the time said purchaser acquired an interest in such Unit.

9.5.1.5 During the pendency of any proceedings to foreclose a first mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to power of sale conferred under a deed of trust and pursuant to law, the Institutional Lender, or a receiver appointed in any such action, may but need not exercise any or all of the rights and privileges of the Owner in default of a Unit including, but not limited to, the right to vote as a member of the Association in the place and stead of the defaulting Owner.

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9.5.1.6 At such time as the Institutional Lender shall become record Owner of a Unit, the Institutional Lender shall be subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay all assessments and charges accruing thereafter, in the same manner as any other Unit Owner.

9.5.2 Notice to Lenders

All institutional lenders that have filed with the Association an appropriate request, shall be entitled to receive the following notices in writing from the Association pertaining to any Unit in which they have an interest:

9.5.2.1 Notice of any proposed change in the Project documents, which notice shall be given thirty (30) days prior to the effective date of such change;

9.5.2.2 Notice of default by the Owner or trustor of any deed of trust on a Unit (the beneficial interest in which is held by said institutional lender) in the performance of such Owner's or trustor's obligations under the Project Documents, which default is not cured within sixty (60) days;

9.5.2.3 Notice of any damage or destruction to any individual Unit subject to a mortgage (the beneficial

interest in which is held by said institutional lender), which damage exceeds One Thousand Dollars (\$1,000.00), which notice shall be given immediately upon the Board's obtaining knowledge of such damage or destruction;

9.5.2.4 Notice of any damage or destruction to any portion of the Common Area or facilities or improvements thereon, which damage or destruction is substantial or may be re-stored only at a cost exceeding Ten Thousand Dollars (\$10,000.00), which notice shall be given immediately upon the Board's obtaining knowledge of such damage or destruction;

9.5.2.5 Notice of any proceeding or other action taken or proposed for the acquisition of any Unit or portion thereof or the Common Area or any portion thereof by any condemnation, eminent domain or similar proceeding, shall be given immediately upon the Board's obtaining knowledge of such proceeding;

9.5.2.6 Notice of all meetings of the Association, which notice shall be given thirty (30) days prior to the date of any such meeting, and each Institutional Lender shall be permitted to designate a representative to attend all such meetings.

9.5.3 Changes Requiring Lender Approval

Without the prior written approval of Declarant (while Declarant is an Owner of any Units) and of at least seventy-five percent (75%) of the institutional lenders (based upon one (1) vote for each mortgage or deed of trust owned) or of the Owners other than Declarant, the Association or Owners shall not be entitled to amend this Declaration.

9.5.3.1 Change the undivided interests in the ownership of the Common Area, the share of assessments charged to any Unit, or the method of determining such assessments;

9.5.3.2 By act or omission, seek to terminate or abandon the status of the Project as a statutory Horizontal Property Regime;

9.5.3.3 Allow partition or subdivision of any Unit, except as provided in Subarticle 2.4;

9.5.3.4 Change the interest of any Unit in the allocation of distributions of hazard insurance proceeds or condemnation awards;

9.5.3.5 By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any portion or

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element of the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause);

9.5.3.6 Use hazard insurance proceeds for losses or damages to any portion of the Property for other than the repair, replacement or reconstruction thereof, except as provided by law in case of substantial loss or damage to the Units and/or the Common Area;

9.5.3.7 By act or omission change, waive or abandon the scheme of regulation and enforcement of architectural control over the Property, as described in Article 8, above;

9.5.3.8 Fail to maintain fire and extended coverage insurance on all insurable portions of the Common Area on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

9.5.3.9 Change the provisions so as to give an Owner, or any other party, priority over any rights of Institutional Lenders pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Units or Common Area.

9.5.4 Mortgage Priority; Right to Inspect Records

Notwithstanding any language contained in this Declaration to the contrary, no Unit Owner and no other party shall have priority over any rights of institutional lenders pursuant to their mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or taking of Units and/or any portion or element of the Common Area. Institutional lenders shall have the right to examine the books and records of the Association during normal business hours and to receive the annual financial statement of the Association within ninety (90) days following the end of the fiscal year of the Association.

9.5.5 Compliance with FHLMC Regulations

The Declarant intends that the Project shall comply with all requirements of the Federal Home Loan Mortgage Corporation (FHLMC) pertaining to the purchase of FHLMC of conventional home loans. Declarant and all Unit Owners therefore agree that, in the event the Project or any of the Project Documents do not comply with the FHLMC requirements, the Board shall have the power (on behalf of the Association) to enter into any agreement with FHLMC (or its designee) reasonably required by FHLMC to allow the Project to comply with such requirements, and

make such changes in the Project Documents to effectuate the same.

9.5.6 Payment of Taxes and Insurance Premiums by Mortgagees

Institutional lenders may, jointly or singly, pay any taxes, assessments, or other charges which are in default and which may or have become a lien or charge against the Common Area and may pay overdue premiums on hazard insurance policies (or secure new hazard insurance coverage on the lapse of a policy) for the Common Area. Any institutional lender making such payments shall be entitled to immediate reimbursement therefor from the Association.

9.5.7 Owner's Right to Sell Unit

The right of any Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal or any similar restriction in favor of the Association.

9.6 Owner's Right and Obligation to Maintain and Repair

Except for those portions of the Project which the Association is required to ^{Unofficial Document} maintain and repair, each Unit Owner shall, at his sole cost and expense, maintain and repair his Unit and any Limited Common Area appurtenant to his Unit, keeping the same in good condition. Additionally, each Owner shall maintain, repair and replace as necessary any separate air conditioning and/or water heating unit which services his Unit, and further, any glass surfaces of a Unit which are damaged shall be repaired within seven days of such damage. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his Unit. In the event an Owner fails to maintain his Unit as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify Owner of the work required and request it be done within thirty (30) days from the giving of such notice. In the event Owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary lien his Unit for the amount thereof.

9.7 Entry for Repairs

The Board or its agents may enter any Unit when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made upon reasonable notice and with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. No

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Owner shall do any act or create any obstruction which would unreasonably interfere with the right or ability of the Association to perform any of its obligations or exercise any of its rights under this Declaration.

9.8 Insurance; Damage or Destruction

9.8.1 Reconstruction by Unit Owners

Subject to other provisions of this Declaration, in the event of damage to or destruction of any part of a Unit, the Owner shall reconstruct the same as soon as reasonably practicable, and substantially in accordance with the original plans and specifications therefor. Each Owner shall have an easement of reasonable access onto any adjacent Unit for purposes of repair or reconstruction of his Unit as provided in this Sub-article.

9.8.2 Association Liability Insurance

The Association shall obtain and continue in effect comprehensive public liability insurance insuring the Association, the Declarant and the agents and employees of each and the Owners and the respective family members, guests and invitees of the Owners against any liability incident to the ownership or use of the Common Area and facilities in the Recreational Common Area, and including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured, and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of the negligence of other Owners or the Association. Such insurance shall be in amounts deemed appropriate to the Board.

9.8.3 Master Hazard Insurance

Additionally, the Association shall obtain and continue in effect a master or blanket policy of multi-peril insurance on the Project, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts required by institutional lenders according to FHLMC regulations, coverage to be obtained on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all improvements on the Project. Such policy shall contain extended coverage and replacement costs endorsements, if available, and may also contain vandalism and malicious mischief coverage, special form endorsement, stipulated amount clause and a determinable cash adjustment clause, or a similar clause to permit cash settlement covering full value of the improvements on the Project in the event of destruction and a decision not to rebuild pursuant to this Declaration. If the Project 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 Project

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shall be maintained in an amount equal to the aggregate outstanding principal balance of all mortgage loans on the individual Units or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. Such policies shall be in form and amount as determined by the Board, shall name as insured the Association, the Owners and Declarant (so long as Declarant is an Owner of any Units), and all mortgages as their respective interests may appear, and shall provide that any proceeds be paid to the Association for the use and benefit of the Owners and mortgagees as their interests may appear. Such policy shall not be required to insure the personal property or customized items within any individual Units, which shall be the responsibility and risk of the Unit Owners.

9.8.4 Additional Association Insurance

The Association may purchase such other insurance as it may deem necessary, including without limitation plate-glass insurance, worker's compensation, directors liability, and errors and omissions insurance, and shall purchase fidelity coverage against dishonest acts by any directors, managers, trustees, employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association. The fidelity insurance shall name the Association as the insured and shall provide coverage in an amount not less than one and one-half (1½) times the Association's estimated annual operating expenses and reserves.

9.8.5 Choice of Carriers; Insurance Premiums

The insurance policies required under this Article 10.8 shall be acquired from carriers meeting the qualifications of the Federal Home Loan Mortgage Corporation. Insurance premiums shall be a common expense to be included in the assessments levied by the Association. The acquisition of insurance by the Association shall be without prejudice to the right of any Unit Owner to obtain additional individual insurance.

Neither the Declarant, the Association, nor any officer or director thereof shall be liable to any Owner or other party if any risk or hazard is not covered by insurance or the amount is inadequate. Each Owner is responsible to ascertain the Association's coverage and to procure such additional coverage as such Owner deems necessary. Institutional Lenders may pay overdue premiums and may secure new insurance coverage upon the lapse of any policy, with respect to any insurance required to be maintained by the Association or by any Owner under this Declaration and any Institutional Lender making such an expenditure, shall be entitled to immediate reimbursement from the Association or Owner or whose behalf the expenditure was made.

9.8.6 Proceeds from Insurance

If any of the Project improvements are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with the original plans and specifications therefor. Custom-built items added by Owners to their Units shall be rebuilt or replaced at the expense of Owners or their insurers. Any excess insurance proceeds shall be deposited to the general funds of the Association. In the event the proceeds of the Association's insurance policy are insufficient to rebuild or repair the damaged Project improvements (not including custom-built items for which individual Owners are responsible), then the Association may use funds from its general account or if necessary from levying a special assessment on all Unit Owners to restore or rebuild said improvements. The Association's use of funds from its general account or levy of a special assessment shall not constitute a waiver of the Association's or any Owner's rights to institute any legal proceeding or suit against the person or persons responsible, purposely or negligently, for the damage.

9.8.7 Total Destruction

In the event ^{Unofficial Document} the Property subject to this Declaration is totally or substantially damaged or destroyed the institutional lenders shall receive timely notice thereof. The repair, reconstruction or disposition of the Property and insurance proceeds shall be as provided by an agreement approved by more than fifty-one percent (51%) of the votes of each class of membership and not less than two-thirds (2/3) of all Institutional Lenders.

9.8.8 Personal Liability Insurance

In addition to the master policies which the Association shall carry, the Board shall have the power to require each Unit Owner, at his expense, to carry personal liability insurance covering damage to property or injury to the person of others within the Project resulting from negligence of the Owner or his agents, in an amount up to One Hundred Thousand Dollars (\$100,000.00) for each occurrence.

9.8.9 Waiver of Subrogation; Notice of Cancellation

All property and liability insurance carried by the Association or the Owners shall contain provisions whereby the insurer waives rights of subrogation as to the Association, officers, and directors, and any Members, their guests, agents and employees. All insurance carried by the Association shall contain a provision requiring the insurer to notify Institutional Lenders requesting such notice, at least thirty (30) days in advance of the effective date of any reduction in or cancellation of the policy.

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9.9 Condemnation

In the event of any taking of any Unit in the Project by eminent domain, the Owner of such Unit shall be entitled to receive the award for such taking and after acceptance thereof he and his mortgagee shall be divested of all interest in the Project if such Owner shall vacate his Unit as a result of such taking. The remaining Owners shall decide by majority vote whether to rebuild or repair the Project, or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project. In the event of a taking by eminent domain of more than one Unit at the same time, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Units are not valued separately by the condemning authority or by the court. The Association should give careful consideration to the allocation of percentage interests in the Common Area in determining how to divide lump sum proceeds of condemnation. In the event any Unit Owner disagrees with the proposed allocation, he may have the matter submitted to arbitration under the rules of the American Arbitration Association.

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9.10 Limitation of Restrictions on Declarant

Declarant is undertaking the work of construction of the Units and incidental improvements upon the Property. The completion of that work and the sale, rental, and other disposal of said Units is essential to the establishment and welfare of the Property as a residential community. In order that said work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

9.10.1 Prevent Declarant, its contractors, or subcontractors from doing on the Property or any Unit, whatever is reasonably necessary or advisable in connection with the completion of the work; or

9.10.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

9.10.3 Prevent Declarant from conducting on any part of the Property its business of completing the work and of establishing a plan of Unit ownership and of disposing of said Property in Units by sale, lease or otherwise; or

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9.10.4 Prevent Declarant from maintaining such sign or signs on any of the Property as may be necessary for the sale, lease or disposition thereof.

So long as Declarant, its successors and assigns, owns one or more of the Units established and described in this Declaration and except as otherwise specifically provided herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration.

9.11 Termination of Any Responsibility of Declarant

In the event Declarant shall convey all of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

9.12 Owners' Compliance

Each Owner, tenant or occupant of a Unit shall comply with the provisions of the Project Documents and all decisions and resolutions of the Association or its duly authorized representative, and failure to comply with any such provisions, decision, or resolutions, shall be grounds for an action to recover sums due, for damages (including costs and attorneys' fees), and/or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Bylaws, shall be deemed to be binding on all Owners of Units, their successors and assigns.

9.13 Conflict of Project Documents

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order; Condominium Plan; Map; Articles; Bylaws; and rules and regulations of the Association.

9.14 Termination of Horizontal Property Regime.

This Horizontal Property Regime may be terminated by the agreement of all of the Owners and Institutional Lenders pursuant to Arizona Revised Statutes Section 33-556, or any amendment thereto, or as provided herein. After termination of the Horizontal Property Regime, the Owners shall own the Property and all assets of the Association as tenants in common in undivided shares, and their respective Institutional Lenders and lienors

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shall have first mortgages and liens upon the respective undivided shares of the Owners. Such undivided shares of the Owners shall be the same as the undivided shares in the Common Area appurtenant to the Owners Units prior to the termination (unless otherwise expressly set forth herein).

9.15 Violation of Declaration; Remedies.

The following provisions are in addition to and not in lieu of any other terms and conditions contained in the Declaration relating to remedies.

9.15.1 Violation of any of the restrictions or conditions, or breach of any of the covenants or agreements contained herein or breach of any rules and regulations promulgated by the Board shall enable the Association, acting through the Board or an authorized agent, or an encumbrance holder in the event that the Association refuses to act, to enter a Unit as to which said violation or breach may exist and summarily enforce such restrictions, conditions, covenants, agreements, or rules and regulations and to abate and remove the thing or condition which may exist thereon contrary to the provisions hereof, at the sole expense of the Owner of said Unit, without being deemed guilty of having trespassed in any manner.

9.15.2 In the event of ^{Unofficial Document} any default by an Owner or occupant under the provisions of this Declaration, the Articles, the Bylaws, or the rules and regulations of the Association, the Association, its successors or assigns, acting through the Board or an authorized agent, shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, the Bylaws or said rules and regulations, or which may be available at law, and may prosecute any action or other proceedings against such defaulting Owner and/or occupant for enforcement or foreclosure of its lien and the appointment of a receiver for the Unit without notice, without regard to the value of such Unit or the solvency of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or take possession of the Unit and to rent the Unit and apply the rent received to payment of unpaid assessments, late charges, if any, and interest accrued thereon, or to sell the same as provided herein, or for any combination of remedies or for any other relief. Nothing contained in this Declaration shall preclude the Association, its agents, the Board, Declarant, an aggrieved Owner, an Institutional Lender or other person having an interest in the Property from exercising any available remedy at law or in equity. The proceeds of any judicial sale foreclosing the lien of the Association shall first be paid to discharge court costs, other litigation costs including but without limitation reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be

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taxed against the defaulting Owner in a final judgment. Any balance of proceeds, after satisfaction of all charges, unpaid assessments, interest, late charges, and other liens, shall be paid to the Owner. Upon the confirmation of the sale, the purchasers thereupon shall be entitled to a deed to the Unit and to immediate possession of the Unit and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration. All expenses of the Association in connection with any action (whether or not a lawsuit is brought) to enforce this Declaration, or lawsuit or other proceedings, including court costs and reasonable attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve percent (12%) per annum shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and shall be a lien upon the Unit of such defaulting Owner and upon all of his additions and improvements thereto. The Association, acting through the Board or its authorized agent, shall have the authority to correct any default and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner, and such assessment shall constitute a lien against the defaulting Owner's Unit. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise. The liens provided for in this Article 9 shall be and are junior and subordinate to first mortgages, and shall be foreclosed in the same manner as a realty mortgage, deed of trust or a mechanic's lien in the State of Arizona.

9.15.3 If any Owner (either by his conduct or by the conduct of any Occupant of his Unit) shall violate any of the provisions of this Declaration, or the provisions of the Articles, Bylaws or the rules and regulations, as then in effect, and such violation shall continue for fifteen (15) days after notice in writing, or shall occur repeatedly during any fifteen-day period after written notice or request to cure such violation, then the Association, acting through the Board, or any authorized agents, or any other Owner, or an encumbrance holder, shall have the power to file an action against the defaulting Owner for a judgment or injunction against the Owner or Occupant requiring the defaulting Owner to comply with the provisions of this Declaration, the Articles, or the Bylaws or the rules and regulations, and granting other appropriate relief including money damages, reasonable attorneys' fees, and court costs. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration shall not defeat or adversely affect the lien of any Institutional Lender upon any Unit, but except as herein specifically provided, each and all of said cov-

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enants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Unit whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

9.16 Waiver; Remedies Cumulative

No failure or delay on the part of any person in exercising any right, power or privilege hereunder and no course of dealing between or among the persons subject hereto, shall operate as a waiver of any provision hereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof nor the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which any person subject hereto would otherwise have. No notice to or demand on any person in any case shall entitle such person to any other or further notice or demand in similar or other circumstances or constitute a waiver of rights to any other or further action in any circumstances.

9.17 Judicial Proceedings

All Owners agree that ^{Unofficial Document} any matter arising under this Declaration may be finally adjudged or determined in any court or courts of the State of Arizona or of the United States of America having jurisdiction in the State of Arizona, and such Owners hereby submit generally and unconditionally to the jurisdiction of such courts and of any of them in respect to any such matter; provided, however, as to those matters to be submitted to arbitration pursuant to any provision hereof, such arbitration provisions shall be controlling and prevail. For the purposes of instituting or defending any action with respect to the Common Area, or with respect to any matter affecting the Owners with respect to the Common Area, and further in connection with enforcing this Declaration, the Articles, the Bylaws and any rules and regulations adopted pursuant to this Declaration, the Articles or the Bylaws, or in any other instance where the Board of the members of the Association deem it is necessary for the best interests of the Project as a whole, the Association, acting by and through its Board, shall be deemed the Real Party in interest and is hereby authorized to commence and prosecute any such proceedings or to defend any such action. Nothing contained in this paragraph 9.17 shall be deemed or construed to impose upon the Association, its members or the Board, any liabilities or obligations nor grant to any third party or parties any rights that any of said above-named parties would not otherwise have if this paragraph were not contained herein.

9.18 Governing Law

This Declaration and the rights and obligations of the parties hereunder shall be construed in accordance with and be governed by the laws of the State of Arizona.

9.19 FHA/VA Approval


As long as there is Class B Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, amendment of this Declaration, and withdrawal or deannexation of any property from this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 19th day of May, 1981.

DECLARANT: UNION HILLS, LTD.,
a California limited partnership

Unofficial Document

By AZTEC FINANCIAL CORPORATION,
a California corporation
Its General Partner

By 
Gary M. Adcock
Its President

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State of Arizona)
County of Maricopa) ss.

On May 19, 1981, before me, the undersigned, a Notary Public/in and for said County and State, personally appeared Gary M. Adcock, known to me to be the President of AZTEC FINANCIAL CORPORATION, a California corporation, which Corporation is the General Partner of UNION HILLS, LTD., a California limited partnership, whose name is subscribed to the within Covenants, Conditions and Restrictions, and known to me to be the person who executed the within instrument on behalf of such Corporation as the General Partner of said Partnership, and acknowledged to me that such Corporation executed such instrument pursuant to its Bylaws or a resolution of its Board of Directors.

Witness my hand and official seal.

David W. Kneffberg
Notary Public
Unofficial Document

My Commission Expires:

Feb 10, 1984

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CONSENT TO RECORDATION OF DECLARATION

FIRST NATIONAL BANK OF ARIZONA, a national banking association, which is the holder of a recorded First Trust Deed covering the Property described in the foregoing Declaration, hereby acknowledges that it has read and approves the Declaration, and agrees that the lien of said Deed of Trust shall be subject and subordinate to the declaration.

DATED: May 19, 1981.

FIRST NATIONAL BANK OF ARIZONA,
a national banking association

BY: Charla B. Simmons

ITS: Assistant Vice President

Unofficial Document

STATE OF ARIZONA)
) ss.
County of Maricopa)

On May 19, 1981, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Charla B. Simmons, known to me to be the Asst. Vice President of FIRST NATIONAL BANK OF ARIZONA, a national banking association, whose name is subscribed to the within Covenants, Conditions and Restrictions, and known to me to be the person who executed the within instrument on behalf of such Corporation, and acknowledged to me that such Corporation executed such instrument pursuant to its Bylaws or a resolution of its Board of Directors.

Witness my hand and official seal.

Sarahy Anderson
Notary Public

My commission expires:
5/22/82



METTEE-MCGILL ASSOCIATES
Civil Engineering Consultants
R.W. Mettee, P.E.
J.C. McGill, P.E.

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EXHIBIT A

LEGAL DESCRIPTION

UNION HILLS CONDOMINIUMS - PHASE I

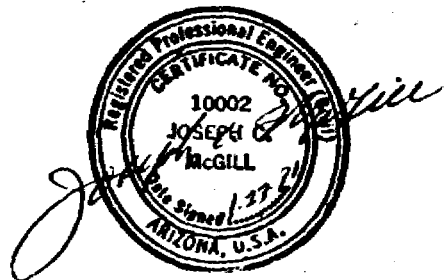
A parcel of land situated in the Northeast quarter of Section 36, Township 4 North, Range 2 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Commencing at the North Quarter corner of said Section 36; thence S 89°55'16" E along the North line of said Section 36 a distance of 404.60 feet to a point; thence S 0°04'44" W a distance of 55.00 feet to a point on the Southerly right-of-way line of Union Hills Drive, said point being the TRUE POINT OF BEGINNING.

Unofficial Document

Thence S 89°55'16" E along said Southerly right-of-way line of Union Hills Drive a distance of 436.36 feet to a point on the Westerly right-of-way line of 21st Avenue; thence S 1°01'03" E along said Westerly right-of-way line of 21st Avenue a distance of 285.05 feet to a point on the Northern boundary line of Summerset, a subdivision as recorded in Book 146, Page 4, Maricopa County Recorder; thence N 89°55'16" W along said Northern boundary of Summerset a distance of 441.82 feet to a point; thence N 0°04'44" E a distance of 285.00 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 2.873 Acres.





METTEE-McGILL-MURPHY
CONSULTING ENGINEERS
SURVEYORS

DKT 15297 PG 148

RICHARD W. METTEE, P.E.
JOSEPH C. MCGILL, P.E.
ROBERT H. MURPHY, P.E.

1450 EAST INDIAN SCHOOL ROAD-SUITE C
PHOENIX, ARIZONA 85014
(602) 279-0001

EXHIBIT B
(Revised 3-23-81)

LEGAL DESCRIPTION

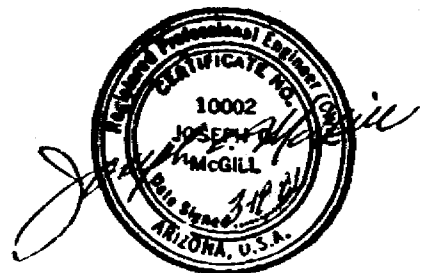
UNION HILLS CONDOMINIUMS - PHASE 2

A parcel of land situated in the Northeast quarter of Section 36, Township 4 North, Range 2 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Commencing at the North Quarter corner of said Section 36; thence S 89°55'16" E along the North line ^{Unofficial Document} of said Section 36 a distance of 404.60 feet to a point; thence S 0°04'44" W a distance of 55.00 feet to a point on the Southerly right-of-way line of Union Hills Drive, said point being the TRUE POINT OF BEGINNING.

Thence continuing S 0°04'44" W a distance of 285.00 feet to a point on the Northern boundary line of Summerset, a subdivision as recorded in Book 146, Page 4, Maricopa County Recorder; thence N 89°55'16" W along said Northern boundary of Summerset a distance of 355.98 feet to the Southwest corner of that property conveyed by deed in Dkt. 14272, Pg. 15, Maricopa County Recorder; thence N 1°21'55" E a distance of 285.07 feet to the Northwest corner of said property, said point being on the Southerly right-of-way line of Union Hills Drive; thence S 89°55'16" E along said Southerly right-of-way line of Union Hills Drive a distance of 349.58 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 2.308 Acres.



When recorded, mail to:

84 151129

David W. Kreutzberg, Esq.
Storey & Ross
2100 North Central Avenue
Suite 110
Phoenix, Arizona 85004

MOD RSTR

RECORDED IN OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA
APR 11 1984 - 8 22
BILL HENRY, COUNTY RECORDER
FEE 500 PGS 5

DECLARATION OF ANNEXATION

UNION HILLS CONDOMINIUMS
MARICOPA COUNTY, ARIZONA

THIS DECLARATION OF ANNEXATION, made on the day hereinafter set forth by Tru West Homes, Inc., an Arizona corporation ("Successor Declarant") successor in interest to Union Hills, Ltd., a California limited partnership ("Declarant") is as follows:

- a. On May 19, 1981, Declarant executed a certain Declaration of Horizontal Property Regime and Covenants, Conditions and Restrictions for Union Hills Condominiums recorded on June 9, 1981 in Docket 15297, Pages 98 - 148 of the records of the Maricopa County, Arizona Recorder (the "Declaration") which concerns that certain Property described on Exhibit "A" attached hereto and incorporated herein by this reference.
- b. Subarticle 2.5.1 of the Declaration provides for annexation of additional Property to the Property subject to the Declaration, subject to compliance with the requirements stated therein. This Declaration of Annexation is being made and recorded prior to three (3) years from the date of the recording of the Declaration and concerns Property described in Subarticle 2.5.1., which has been subject to that Horizontal Property Regime Map recorded in Book 233 of Maps, page 10 (the "Map"), which is incorporated herein by this reference. Therefore, this Annexation thereby satisfies the requirements contained in Subarticle 2.5.1.
- c. Successor Declarant desires to annex the Property described on the attached Exhibit "B" to the Horizontal Property Regime created by the Declaration and to subject such Property to all the terms, provisions and conditions of the Declaration, and all other documents described therein.

84 151129

NOW, THEREFORE, pursuant to Subarticle 2.5.1 of the Declaration, Successor Declarant hereby declares that:

1. The Property described in Exhibit "B" attached hereto and incorporated herein by this reference is hereby submitted to the Declaration and shall be subject to all the terms, provisions and conditions more particularly set forth therein and all other documents described therein.
2. The annexed Property shall constitute Phase II of the Project and shall consist of thirty-nine (39) Condominiums (including Units and Common Interests) and Common Area all of which Property is described on the Map. The annexed Units are described as Units 101 thru 132 and 201, 210, 211, 223, 226, 227 and 232
3. As provided in Subarticle 2.5.1 of the Declaration, Successor Declarant hereby reallocates each Condominium's undivided interest in the Common Area of the entire Project, all of which Common Area (both in the ^{Official Document} Property described in Exhibit "A" and the Property described in Exhibit "B") is merged as provided in said subarticle. Each Condominium's Common Interest in the Common Area is equal to a 1/67th undivided interest in the Common Area and all Owners heretofore and hereafter shall be bound by the terms and provisions of this reallocation.

IN WITNESS WHEREOF, Successor Declarant has executed this instrument to be effective this 29th day of March, 1984.

SUCCESSOR DECLARANT:

TRU WEST HOMES, INC., an Arizona corporation

By

James A. Hart
Its President/Owner

APPROVED by the VETERANS ADMINISTRATION this 9th day of

March, 1984

James E. Jelliffe

84 151129

STATE OF ARIZONA)
) SS.
County of Maricopa)

The foregoing instrument was acknowledged before me
this 29th day of March, 1984, by Truman West,
the President of TRU WEST HOMES, INC., an Arizona corpora-
tion.

Nancy L. Cottle
Notary Public

My Commission Expires:
11-8-87

Unofficial Document



METTEE & MCGILL ASSOCIATES
Civil Engineering Consultants
R.W. Mettee, P.E.
J.C. McGill, P.E.

84 151129

EXHIBIT ALEGAL DESCRIPTION

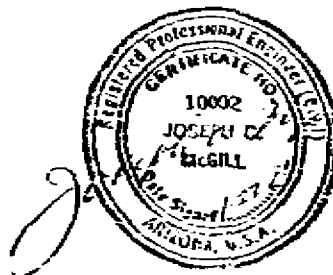
UNION HILLS CONDOMINIUMS - PHASE I

A parcel of land situated in the Northeast quarter of Section 36, Township 4 North, Range 2 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Commencing at the North Quarter corner of said Section 36; thence S 89°55'16" E along the North line of said Section 36 a distance of 404.60 feet to a point; thence S 0°04'44" W a distance of 55.00 feet to a point on the Southerly right-of-way line of Union Hills Drive, said point being the TRUE POINT OF BEGINNING.

Thence S 89°55'16" E along said Southerly right-of-way line of Union Hills Drive a distance of 436.36 feet to a point on the Westerly right-of-way line of 21st Avenue; thence S 1°01'03" E along said Westerly right-of-way line of 21st Avenue a distance of 285.05 feet to a point on the Northern boundary line of Summerset, a subdivision as recorded in Book 146, Page 4, Maricopa County Recorder; thence N 89°55'16" W along said Northern boundary of Summerset a distance of 441.82 feet to a point; thence N 0°04'44" E a distance of 285.00 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 2.873 Acres.





METTEE-MCGILL-MURPHY
CONSULTING ENGINEERS
SURVEYORS

84 151129

RICHARD W. METTEE, P.E.
JOSEPH C. MCGILL, P.E.
ROBERT H. MURPHY, P.E.

1450 EAST INDIAN SCHOOL ROAD SUITE C
PHOENIX, ARIZONA 85014
(602) 274-0801

EXHIBIT B
(Revised 3-23-81)

LEGAL DESCRIPTION

UNION HILLS CONDOMINIUMS - PHASE 2

A parcel of land situated in the Northeast quarter of Section 36, Township 4 North, Range 2 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

Unofficial Document

Commencing at the North Quarter corner of said Section 36; thence S 89°55'16" E along the North line of said Section 36 a distance of 404.60 feet to a point; thence S 0°04'44" W a distance of 55.00 feet to a point on the Southerly right-of-way line of Union Hills Drive, said point being the TRUE POINT OF BEGINNING.

Thence continuing S 0°04'44" W a distance of 285.00 feet to a point on the Northern boundary line of Summerset, a subdivision as recorded in Book 146, Page 4, Maricopa County Recorder; thence N 89°55'16" W along said Northern boundary of Summerset a distance of 355.98 feet to the Southwest corner of that property conveyed by deed in Dkt. 14272, Pg. 15, Maricopa County Recorder; thence N 1°21'55" E a distance of 285.07 feet to the Northwest corner of said property, said point being on the Southerly right-of-way line of Union Hills Drive; thence S 89°55'16" E along said Southerly right-of-way line of Union Hills Drive a distance of 349.58 feet to the TRUE POINT OF BEGINNING.

Said parcel contains 2.308 Acres.

