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Scottsdale, Arizona 85252

OFFICIAL RECORDS OF
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HELEN PURCELL

2001-0996749

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03:17 PM
1 OF 1
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CERTIFICATE OF AMENDMENT TO THE
DECLARATION OF ESTABLISHMENT OF CONDOMINIUM AND
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SCOTTSDALE SPRINGS CONDOMINIUM

The undersigned President and Secretary of THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION having jurisdiction over THE SCOTTSDALE SPRINGS CONDOMINIUM, pursuant to the Declaration of Establishment of Condominium and Declaration of Covenants, Conditions and Restrictions for SCOTTSDALE SPRINGS CONDOMINIUM recorded at Recording Instrument #95-440299 on July 27, 1995, hereby certifies that at a special meeting of the membership of said Association held on October 16, 2001 more than 67% of the unit owners of said Condominium voted in favor of an amendment to said Declaration amending paragraph 3.09 of said Declaration by adding at the end thereof the language found on Exhibit A which is attached hereto and by reference incorporated herein.

THEREFORE, pursuant to paragraph 15.17 of said Declaration, the undersigned President and Secretary of said Association hereby certify the adoption of this amendment effective upon the

recording of this Certificate.

DATED this 22nd day of October, 2001.

THE SCOTTSDALE SPRINGS CONDOMINIUM
ASSOCIATION

by

President

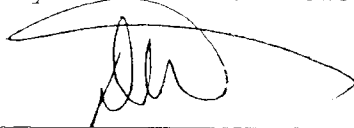
by

Secretary

STATE OF ARIZONA)
) ss
County of Maricopa)

This 22nd day of October, 2001, before me the undersigned Notary Public, personally appeared JOHN MELE, the President of THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION, and as such officer and being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Association as such officer.

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



Notary Public

My Commission expires: at the pleasure
of the Attorney General

COHEN LISTER
BARRISTERS & SOLICITORS
205 24TH AVENUE S.W.
CALGARY ALBERTA T2M 2Z8

DARRELL S. COHEN
BARRISTER & SOLICITOR

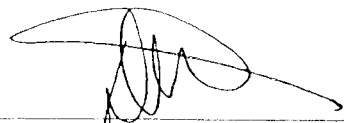
2 Ph. 403-210-2821

STATE OF ARIZONA)
) ss
County of Maricopa)

20010504

This 22nd day of October, 2001, before me the undersigned Notary Public, personally appeared BRIAN R. BARNETT, the Secretary of THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION, and as such officer and being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Association as such officer.

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



Notary Public

My Commission expires: at the pleasure
of the Attorney General

DARRELL S. COHEN
BARRISTER & SOLICITOR

COHEN LISTER
BARRISTERS & SOLICITORS
205 2411 40th STREET N.W.
CALGARY ALBERTA T2M 2Z8
Ph. 403-210-2821

EXHIBIT A

Said Unit 109 may be sold by the Association by a vote of the Board of Directors of the Association for residential purposes pursuant to a price and terms approved by said Board of Directors. Prior to said sale, said Board of Directors may make such repairs, modifications and improvements to said Unit 109 as said Board deems advisable to accomplish the sale of said Unit 109 for residential purposes.

When Recorded Return to:
John W. Weideman, Esq.
3116 E. Shea Blvd., Suite 188
Phoenix, Arizona 85028

CONFIRMED WITH MARICOPA COUNTY
RECORDER'S OFFICE.

People's
RECORDED JULY 27, 1995 as
INSTRUMENT NO. 95-440299

Amendment and Restatement of Declaration of Horizontal Property
Regime and Declaration of Covenants, Conditions, and Restrictions
Establishing and Governing HARBOR POINT CONDOMINIUMS
(TO BE KNOWN AS SCOTTSDALE SPRINGS CONDOMINIUM)

This Document to be known and designated as Declaration of Establishment of
Condominium and Declaration of Covenants, Conditions and Restrictions for
Scottsdale Springs Condominium

THIS AMENDMENT AND RESTATEMENT OF DECLARATION OF
HORIZONTAL PROPERTY REGIME AND DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS ESTABLISHING AND GOVERNING
HARBOR POINT CONDOMINIUMS (TO BE KNOWN AS SCOTTSDALE SPRINGS
CONDOMINIUM), is made and entered into as of the date hereunder set forth by PAR
HARBOR LIMITED PARTNERSHIP, an Arizona Limited Partnership having an
address at 1921 S. Alma School Road, Suite 214, Mesa, Arizona 85210 (hereinafter
referred to as the "Declarant").

RECITALS

Declarant is the present fee owner of all of the real property situated in the City of
Scottsdale, County of Maricopa, State of Arizona, which is more particularly described
and set forth in Exhibit "A" attached hereto and incorporated herein (hereinafter referred
to as the "Parcel").

On December 17, 1985, the Declarant executed that certain Declaration of
Horizontal Property Regime and Declaration of Covenants, Conditions, and Restrictions
Establishing and Governing Harbor Point Condominiums ("Declaration"), which was
recorded on December 19, 1985, at Document No. 85-600728, in the Office of the
Maricopa County Recorder, Arizona. The Declaration submitted and subjected the Parcel
to a Horizontal Property Regime under the laws of the State of Arizona in effect at that
time, §§ 33-551 through 33-561, of the Arizona Revised Statutes ("Prior Act"). Pursuant
to the Prior Act, and concurrently with the recordation of the Declaration in the Office of
the Maricopa County Recorder, Arizona, the Declarant recorded that certain
Condominium Plat in Book 243 of Maps, at Page 17, in the Office of the Maricopa

County Recorder, Arizona, as more particularly defined and set forth in § 1.23 below ("Plat").

Subsequent to the recordation of the Declaration and the Plat in the Office of the Maricopa County Recorder, Arizona, (1) the Declarant has maintained fee simple title ownership to all of the real property comprising the Parcel; (2) the Time Limitation, as set forth in § 14.04 of the Declaration, within which the Declarant reserved the right to legally phase and annex Condominium Units into the Parcel expired on December 19, 1992; and (3) the Legislature of the State of Arizona replaced and superseded the Prior Act by its enactment of the Uniform Condominium Act as more particularly described and defined in § 1.01 below ("Act").

As a result of the occurrences set forth in the preceding paragraph, and as the Owner of all of the real property comprising the Parcel, it is the desire and intent of the Declarant to amend and re-state the Declaration in its entirety among other things, for the following purposes: (1) to extend the right of the Declarant to legally phase and annex Condominium Units within the Parcel beyond December 19, 1992 to the date of recordation of this instrument; (2) to, and by the recordation of this Instrument in the Office of the Maricopa County Recorder, Arizona, legally annex, incorporate, and subject all of the Parcel, and all of the Condominium Units contained therein, as hereinafter defined and set forth in § 1.23 below, to the terms and conditions of this Instrument and the Plat; and (3) to revise, amend, and modify the Declaration by the execution and recordation of this Instrument so that this Instrument shall substantially conform with and be in substantial compliance with the Act, as opposed to the Prior Act which has been superseded by the Legislature of the State of Arizona.

Further, it is the desire and intent of the Declarant to amend and change the name of "HARBOR POINT CONDOMINIUMS" as set forth in the Declaration and the Plat to "SCOTTSDALE SPRINGS CONDOMINIUM", so that, from and after the date of recordation of this Instrument, all Condominium Units contained within the Parcel, as hereinafter provided and defined, shall be known, designated, and conveyed as Condominium Units within SCOTTSDALE SPRINGS CONDOMINIUM.

Upon the execution and recordation of this Instrument in the Office of the Maricopa County Recorder, Arizona, and for the reasons and grounds set forth above, the establishment of the SCOTTSDALE SPRINGS CONDOMINIUM shall be deemed to occur on December 19, 1985, and the legal annexation and phasing of Additional Condominium Units therein, as described in § 14.03 of the Declaration (and as additionally described in § C below) shall be deemed to occur upon the recordation of this Instrument in the Office of the Maricopa County Recorder, Arizona.

NOW, THEREFORE, the Declarant, as the fee simple owner of all of the Parcel, and as permitted and provided for in § 15.20(a) of the Declaration, hereby amends and re-states, as appropriate, the Declaration in its entirety as follows:

A. As provided in § 3.01 set forth below, the Property shall be hereinafter known and designated as SCOTTSDALE SPRINGS CONDOMINIUM.

B. Notwithstanding the terms and conditions of §14.04 of the Declaration, which is being amended and re-stated by this Instrument, the Time Limitation within which the Declarant may legally phase and annex Condominium Units within the Property as referenced within said §14.04 is hereby extended to the date of recordation of this Instrument in the Office of the Maricopa County Recorder, Arizona. Upon the recordation of this Instrument in the Office of the Maricopa County Recorder, Arizona, the Property shall be deemed to be comprised of and constitute Two Hundred and Three (203) Condominium Units to be governed by, and submitted and subjected to, this Instrument, and to be owned, held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used, and approved subject to the terms and conditions of this Instrument, as provided and set forth in §2.01 hereinafter set forth.

C. Because the Plat designates Two Hundred and Three (203) Condominium Units, the total number of Condominium Units within Scottsdale Springs Condominium is hereby established at Two Hundred and Three (203) (and notwithstanding any term or condition in the Declaration which previously specified that a total of Two Hundred and Two (202) Units could be annexed into and within the Declaration). Pursuant to this Instrument, the Declarant has elected, and does hereby annex the 203rd Condominium Unit within Scottsdale Springs Condominium (specifically Unit No.109 in Building No.2), which is the Office Unit as described in §3.09 below.

Incorporating herein as part of this Instrument the terms and conditions of §§A, B, and C immediately set forth above, the Declarant, as present Owner of all of the Parcel described above, and for the purposes above set forth, declares as follows:

ARTICLE I DEFINITIONS

As used herein, unless the context otherwise requires:

1.01 "Act" shall mean and refer to the Uniform Condominium Act as adopted within the State of Arizona at §33-1201 et seq. of the Arizona Revised Statutes, as the same may be amended from time to time.

1.02 "Affiliate of a Declarant" shall mean and refer to a Person or entity who controls, is controlled by, or is under common control with the Declarant or its successors or assignees in interest.

1.03 "Allocated Interest" or "Allocated Interests" shall mean and refer to the undivided interest or interests in the Common Elements respectively allocated to the Units and each Unit.

1.04 "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION, which will be a non-profit Corporation, the members of which will be comprised of all of the Unit Owners of the Condominium Units.

1.05 "Association" shall mean and refer to THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION, a non-profit Corporation, the members of which will be comprised of the Unit Owners of all the Condominium Units in the Property. The Association will be incorporated under the name of THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION, an Arizona non-profit Corporation, prior to the conveyance of the first Condominium Unit by the Declarant.

1.06 "Association Rules" shall mean and refer to the Rules and Regulations adopted by the Association pursuant to this Declaration or the By-Laws governing maintenance and use of the Units and Common Elements, as the same may be from time to time amended.

1.07 "Assessments" shall mean and refer to the charges against the Owners to defray the Common Expenses as well as miscellaneous special Assessments, special Assessments for capital improvements, and special Assessments for the purpose of restoring and reconstructing the Property in the event of casualty or loss, all as provided in this Declaration.

1.08 "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association elected pursuant to the By-Laws, and possessing general management powers to act on behalf of the Association.

1.09 "Building" shall mean and refer to the principal structures located or constructed on the Parcel and forming part of the Property as shown on the Plat, whether or not such structures are composed of One (1) or more floors or stories. The Buildings designated upon the Plat contain Condominium Units as shown upon Exhibit "C" attached hereto and incorporated herein.

1.10 "By-Laws" shall mean and refer to the By-Laws adopted by the Association pursuant to §33-1246 of the Act promulgated for the purpose of regulating the affairs of the Association as the same may be amended from time to time.

1.11 "Common Elements" shall mean and refer to all portions of the Property comprising this Condominium other than the Units.

1.12 "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Unit as hereinafter set forth in this Declaration.

1.13 "Common Expenses" shall mean and refer to the actual and estimated costs for: (a) maintenance, management, operations, repair, replacement, and betterment

of the Common Elements which are maintained by the Association (including, but not limited to, painting, landscaping, repairs, replacements, alterations, additions, reconstruction, services, supplies, labor, materials, equipment, and other related items); (b) deficiencies arising by reason of nonpayment of Assessments by a Unit Owner including the costs of forcing compliance with this Declaration; (c) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, and employees; (d) water and all other utility service excepting telephone service and utilities other than separately metered utilities for the Condominium Units, trash pickup and disposal, gardening, and other related services; (e) insurance and bonds required by this Declaration or any other additional insurance and bonds obtained by the Board in its discretion; (f) the establishment and maintenance of reasonable reserves as the Board shall deem appropriate in its discretion to meet the costs and expenses of maintenance, repairs, and replacements of those Common Elements which must be maintained, repaired, and replaced on a periodic basis; and (g) such other miscellaneous costs and charges incurred by the Association or the Board pursuant to this Declaration, the By-Laws, or Association Rules in furtherance of the purposes of the Association or in discharge of the duties and powers of the Association.

1.14 "Condominium Unit" or "Unit" shall mean and refer to a part of the Property, including one (1) or more rooms situated in the Buildings comprising part of the Property, designated or intended for separate ownership or occupancy as a dwelling Unit, (except for the Office Unit described in Section 3.09 below) together with a respective undivided Allocated Interest in the Common Elements, and any exclusive or non-exclusive use appurtenant thereto. Each Condominium Unit shall consist of the air space enclosed and bounded by the horizontal and vertical planes as shown or indicated on the Plat in relating to said Unit; provided, however, that the Unit boundaries shall be a further defined in §3.03 of the Declaration and §33-1212 of the Act.

1.15 "Declarant" shall mean and refer to PAR HARBOR LIMITED PARTNERSHIP, an Arizona Limited Partnership, its successors or assigns in interest, or any other Person or entity or group of Persons or entities who reserves, is granted, or succeeds to any special Declarant right.

1.16 "Declaration" shall mean and refer to this instrument by which the Property is submitted to a Condominium including any and all exhibits attached hereto and incorporated herein, and any and all amendments and supplements hereto (which Declaration is also referred to hereinafter as "Declaration of Establishment of Condominium and Declaration of Covenants, Conditions and Restrictions").

1.17 "Development Rights" shall mean and refer to those rights hereby reserved by the Declarant as enumerated and set forth in Article XIV of this Declaration.

1.18 "First Mortgagee(s)" shall mean and refer to an institutional holder of a first mortgage or deed of trust on a Condominium Unit which is a bank, savings and loan

association, insurance company, established mortgage company, a lender approved by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veterans Administration or the United States Department of Housing and Urban Development, or other entity chartered and regulated under state or federal law, and their successors and assigns.

1.19 "Limited Common Elements" shall mean and refer to any portion of the Common Elements specifically designated as a Limited Common Element in this Declaration for the exclusive use of one or more but fewer than all of the Units and Unit Owners.

1.20 "Occupants" shall mean and refer to a Person or Persons other than an Owner, in possession of a Condominium Unit.

1.21 "Owner" or "Unit Owner" shall mean and refer to the Person and Persons who are vested with record title, in fee simple, to a Condominium Unit according to the records of the County Recorder of Maricopa County, Arizona, including a Person or Persons who are the purchaser or purchasers of a Condominium Unit under a valid and outstanding recorded Agreement of Sale (as defined in §33-741 of the Arizona Revised Statutes) with respect thereto, but shall not include a Person or Persons whose interest in the Condominium Unit is limited to security for the performance of an obligation. The Declarant shall be considered the record Owner of any Condominium Unit after the recordation of this Declaration prior to its initial conveyance by the Declarant.

1.22 "Parcel" shall mean and refer to the single parcel of real property situated in the City of Scottsdale, Count of Maricopa, State of Arizona, which is set forth in Exhibit "A" attached hereto and incorporated herein, and which constitutes the real property committed to the Condominium pursuant to this Declaration.

1.23 "Plat" shall mean and refer to the Plat of survey of the Property submitted to this Condominium designating thereon Two Hundred and Three (203) Condominium Units, each of which is identified by number. Said Plat is attached hereto as Exhibit "B", shall be deemed a part of this Declaration pursuant to §33-1219 of the Act, and was recorded prior to the recordation of this Declaration in Book 243 of Maps, at Page 7 in the office of the Maricopa County Recorder, Arizona. Although the Plat is entitled or labelled "Harbor Point", by virtue of the recordation of this Declaration (and the incorporation of the Plat therein), the Condominium being established by this Declaration shall hereafter be known and designated as "SCOTTSDALE SPRINGS CONDOMINIUM".

1.24 "Person" shall mean and refer to a natural Person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity capable of holding title to real property. In the case of a Subdivision Trust, as defined in §6-801 of the Arizona Revised Statutes, "Person" as defined herein shall mean and refer to the Beneficiary of the Trust

who holds the right to subdivide, develop, or sell the real estate which is the subject of the Trust rather than the Trust to Trustee.

1.25 "Property", "Project", or "Condominium Project" shall mean and refer to the Parcel, together with all the Buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.26 "Restrictions" shall mean and refer to the covenants, conditions, restrictions, assessments, easements, and liens as set forth in this Declaration.

1.27 "Servicer" shall mean and refer to the Person or entity servicing a first mortgage or a first deed of trust constituting a lien upon a Condominium Unit (including the First Mortgagee or first beneficiary, if applicable), or his or its successors or assigns.

1.28 "Special Declarant Rights" shall mean and refer to those rights reserved by the Declarant as enumerated and set forth in Article XIV of this Declaration.

ARTICLE II CREATION OF THE CONDOMINIUM REGIME

2.01 Submission. Declarant hereby submits and subjects the Property to a Condominium pursuant to the Act, and in furtherance thereof, declares and establishes the Restrictions contained in this Declaration, and Declarant hereby declares and agrees that the Property and all of the Condominium Units shall be owned, held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used, and improved subject to the terms and conditions of the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and which shall be binding upon and inure to the benefit of the Declarant, the Association, and each Owner, including their respective heirs, executors, administrators, personal representatives, successors, and assigns.

ARTICLE III DESCRIPTION OF THE BUILDINGS, THE CONDOMINIUM UNITS, THE COMMON ELEMENTS AND THE LIMITED COMMON ELEMENTS

3.01 Name. The Property shall be known as SCOTTSDALE SPRINGS CONDOMINIUM.

3.02 Cubic Content Space of the Buildings. A description of the cubic content space of each Building containing Condominium Units with reference to its location on the Parcel is described on and calculated from information contained on the Plat. The horizontal boundaries shall be the planes of the top elevations of the Buildings, as shown on the Plat, and the plane of the base elevation of the Buildings as shown on the Plat. The vertical boundaries shall be the exterior of the outside walls, except where there

are balconies or patios which extend beyond the exterior of the outside walls, the vertical boundaries shall be the plane of the outer edges of the balcony or porch extended upward to the upper horizontal boundary, all as shown on the Plat.

3.03 Cubic Content of Condominium Units. The cubic content space of each of the Condominium Units within the Buildings are described on and calculated from information contained on the Plat. The horizontal boundaries of each Condominium Unit shall be the underside of the finished but undecorated ceiling, and the top of the finished but undecorated floor of the Condominium Unit as shown on the Plat. The vertical boundaries of each Condominium Unit shall be the interiors of the finished but undecorated walls located on the perimeter lines of the respective Condominium Units as shown on the Plat.

As such, and pursuant to §33-1212 of the Act, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces of the walls, floors, or ceilings of a Condominium Unit shall be deemed to constitute a part of such Unit. (All other portions of the walls, floors, ceilings, or any exterior features beyond that shown upon the Plat of any Condominium Unit shall be deemed to constitute a part of the Common Elements). Further, subject to the preceding, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a Unit shall be deemed to constitute a part of such Unit.

3.04 Description of Common Elements. The Common Elements shall consist of the entire Property excluding the Condominium Units

3.05 Description of Limited Common Elements. Any portion of any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture which lies partially within and partially outside the designated boundaries of any Unit which serves only such Unit shall be deemed to constitute a Limited Common Element allocated solely to such Units. (Any portion of any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture which lies partially within and partially outside of the designated boundaries of any Unit which serves more than one Unit or any portion of the Common Elements shall be deemed to constitute a part of the Common Elements). Any shutters, awnings, window boxes, door steps, stoops, porches, balconies, entryways or patios, storage or utility room, and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the boundaries of such Unit shall be deemed to constitute Limited Common Elements allocated exclusively to such Unit.

3.06 Allocated Interest of Each Condominium Unit in The Condominium. The following designation of the Allocated Interest which each Condominium Unit bears to the Common Elements within the Condominium, which Allocated Interest is based upon the fractional percentage of $\frac{1}{203}$ (obtained by dividing the number 1 by the number 203) for each Unit, shall constitute the Allocated Interest of each Owner in the Common Elements.

3.07 Maintenance By Owners. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs, and replacements within his own Condominium Unit. Such obligation shall include; (a) the maintenance of all interior doors, lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting the finished surfaces of floors, ceilings, or interior walls (all other portions of the walls, floors, or ceilings are part of the Common Elements); (b) repair and replacement of all window and door glass and related screens (including sliding glass doors for patios or balconies) and the interior and exterior cleaning of such window and door glass; (c) the maintenance of, in an open and unobstructed condition, all sewer and drainage pipes, water and other utility lines serving an Owner's respective Condominium Unit between the points at which the same enter the respective Condominium Unit and the points where the same joins the utility lines serving other Condominium Units; and (d) maintenance, replacement, repair, and restoration of all of the following which service an Owner's Condominium Unit exclusively; lighting fixtures, plumbing fixtures, stoves, refrigerators, hot water heaters, air conditioning units (including compressors and condensers) and such other appliances, fixtures, and decorations as an Owner may install. An Owner shall also furnish and be responsible for, at his, her, or its own expense, all of the maintenance within his, her, or its patio and/or balcony area and the maintenance, repairs, and replacements of any storage area therein; and shall keep his, her, or its patio and/or balcony in a clean, sanitary, and attractive condition. An Owner may make non-structural alterations within his, her, or its Condominium Unit, but an Owner shall not make any structural or exterior alterations of the Common Elements.

3.08 Utilities. Utilities for individual Condominium Units, except water service charges, (which will be metered collectively and paid by the Association as a Common Expense Item), will be metered separately to each Condominium Unit and such utility charges shall be the responsibility of the respective Owners.

3.09 Office Unit. Unit 109 within Building 2 as shown and designated upon the Plat is hereby designated for use by the Declarant and its successors and assigns as an office to be owned and utilized by the Declarant, and its successors and assigns in the management and operation of the Property ("Office Unit"). Further, and as provided in Section 14.02(b) hereof, the Declarant may also utilize the Office Unit for the purposes set forth therein. Notwithstanding the non-residential utilization of the Office Unit, ownership of the Office Unit by the Declarant, and its successors and assigns, shall be subject to the benefits and burdens, as appropriate, of any other Condominium Unit within the Property including, without limitation, the obligation to pay any Assessments attributable to the Office Unit as provided in Article V of this Declaration. At such time as the Class B Membership of the Association has been converted into Class A Membership, or until such time as the Declarant, or its successors and assigns, ceases to offer Condominium Units for sale in the ordinary course of business, as provided and set forth in Section 4.03 hereof, the Declarant, for and on behalf of its successors and assigns, reserves the right to convey the Office Unit to any third party person or entity

(other than the Association) for residential use and occupancy pursuant to the Use Restrictions set forth in this Declaration. Notwithstanding the preceding, the Declarant, for and on behalf of its successors and assigns, reserves the right at any time from and after the date of this Declaration to convey the Office Unit to the Association to be utilized by the Association for office purposes in the maintenance and operation of the Property; the purchase price and consideration therefor to be mutually agreed to by and between the Declarant, and its successors and assigns, and the Association.

ARTICLE IV MANAGEMENT

4.01 Association. The Association will be formed pursuant to the provisions of §33-1241 through §33-1259, inclusive, of the Act to serve as the governing body for all Owners and shall make provisions for the maintenance, repair, replacement, administration, and operation of the Common Elements, assessment of expenses, payment of losses, division of profits, acquisition of hazard insurance, and disposition of such hazard insurance proceeds, and other matters as provided in the Act, the Declaration, and the By-Laws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the Declaration and the By-Laws.

4.02 Membership. Each Owner shall be a member of the Association so long as he, she, or it shall be an Owner and such membership shall automatically terminate when he, she, or it ceases to be an Owner, and upon the transfer of such ownership interest, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

4.03 Voting. The Association shall have two classes of voting membership.

Class A. Class A Members shall be all Owners other than Declarant. Class A Members shall be entitled to one (1) vote for each Condominium Unit owned. When more than one (1) Person owns an interest in a Condominium Unit, each such Person shall be a Member of the Association but the vote for such Condominium Unit shall be exercised as the co-Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium Unit. The Association shall not be required to recognize the vote or written assent of any such co-Owner except the vote or written assent of the co-Owner designated in a writing executed by all such co-Owners and delivered to the Association.

Class B. The Class B Membership shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Condominium Unit which it owns, provided, however, the Class B Membership shall cease and be

converted into Class A Membership on the happening of whichever of the following is first in time:

(a) On the date which is Ninety (90) days subsequent to the date when the total votes outstanding in the Class A Membership equal or exceed the total votes outstanding in the Class B Membership; or

(b) On the fourth (4th) anniversary following the date of cessation by any Declarant, as defined in this Declaration, to offer Condominium Units for sale in the ordinary course of business.

4.04 Board of Directors. The governing body of the Association shall be the Board of Directors elected pursuant to the By-Laws. The Board shall consist of not less than three (3) members and not more than seven (7) members. Except as otherwise provided in this Declaration, the By-Laws, or Association Rules, the Board may act in all instances on behalf of the Association.

4.05 Qualification of Directors. Except for Board Members designated by the Declarant, each Director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, limited liability company, partnership or trust, a Director may be an officer, director, member or manager, partner, trustee or beneficiary of such Owner). If a Director shall cease to meet such qualifications during his term, he will thereupon cease to be a Director and his place on the Board shall be deemed vacant.

4.06 Independent Manager. The Board may employ a responsible Person or entity as manager to manage, operate, and maintain the Common Elements, with all of the administrative functions and such other powers and duties as the Board may delegate from time to time and for such fees as the Board may establish consistent with other provisions of this Declaration. Any Agreement for management of the Property shall be in writing and shall provide for termination by either the Association or the Management Agent without cause or payment of a termination fee on not more than Thirty (30) days written notice, and the term of such Agreement shall not exceed one (1) year, renewable by written agreement of the parties for successive periods of one (1) year.

4.07 Action By Owners. The Association shall act to adopt or amend the By-Laws and Association Rules. The By-Laws and Association Rules shall be adopted or amended only by a majority of a quorum of the voting power of the Association comprised of at least Twenty-Five Percent (25%) of the total votes present and voting in person or by proxy at a regular or special meeting of the Association Owners as set forth in the By-Laws. The Board may act on behalf of the Association to exercise those powers and duties as set forth in the By-Laws subject, however, to the limitations set forth §33-1243 of the Act.

4.08 Annual Meeting. The first meeting of the Association shall be held not later than One Hundred and Twenty (120) days after the first conveyance of a Condominium Unit from the Declarant to an Owner is recorded. Thereafter, the annual meeting shall be held as provided in the By-Laws, and at least once each year following the first meeting of the Association as set forth in §33-1248 of the Act.

4.09 Right of Association to Enter Condominium Units. The Association acting through the Board of its duly authorized agent shall have the right at all times upon reasonable notice (and at any time in case of any emergency) to enter upon or in any Condominium Unit to abate any infractions or correct any violation of any of the Restrictions herein set forth, and in connection therewith, shall have the further right to assess all costs incurred against the Owner, such Assessment to be secured by the lien provided in §5.01.

4.10 Reserve Fund. The Association shall maintain a reserve fund for maintenance, repairs, and replacement of those Common Elements that must be replaced on a periodic basis, and such reserve shall be funded as part of monthly Assessments.

4.11 Right of Board to Exclude Use. The Board shall have the right to exclude from the use of the recreational facilities any Owner who is delinquent in the payment of any Assessment levied in accordance with Article V hereof, or who is in violation of the Association Rules and Regulations.

ARTICLE V COVENANTS FOR ASSESSMENTS

5.01 Creation of Lien and Personal Obligation For Assessments. Each Owner, including Declarant as an Owner as defined herein, of any Condominium Unit, by acceptance of a Deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such Deed or other instrument, is deemed to covenant and agree to pay to the Association, such Assessments to be fixed, established, and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs, and other costs of collection as hereinafter provided, shall be a continuing lien upon the Condominium Unit against which each such Assessment is made. Each such Assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Condominium Unit at the time the Assessment becomes due. The personal obligation shall not pass to the successor in title of an Owner unless expressly assumed by such successor.

5.02 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety, and welfare of the Owners, the management, maintenance, care, preservation, and protection of the Property including, without limitation, the improvement and maintenance of the services

and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements, or in furtherance of any other duty or power of the Association.

5.03 Maximum Annual Assessment for Common Expenses. The allocation of each Unit Owner's Liability for the payment of common expenses of the Association shall be assessed on an equal basis for all Units, i.e., each Unit Owner shall pay the Annual and Special Assessments established hereby in the same and equal amount, corresponding to the Unit Owner's respective equally Allocated Interest in the Common Elements. Until January 1 of the year immediately following the conveyance of the first Unit to any Owner, the maximum annual Assessment for Common Expenses shall be One Thousand Five Hundred and Sixty DOLLARS (\$1,560.00) per Unit.

(a) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual Assessment may be increased each year without a vote of the membership by the greater of (1) seven percent (7%) above the maximum Assessment for the previous year, or (2) a percentage amount above the maximum Assessment for the previous year, which latter percentage amount reflects the increase in the Consumer Price Index - All Urban Customers - All Cities, published by the Bureau of Labor Statistics of the United States Department of Labor entitled "All Items" for January, 1995 (hereinafter referred to as the "Base CPI"). The increased maximum annual assessment shall be determined by multiplying the previous maximum annual Assessment by a fraction, the numerator of which is the current CPI for January of the year immediately following the conveyance of the first Unit to any Owner, and successive years, and the denominator of which is the Base CPI:

$$\begin{aligned} \text{Increased maximum annual Assessment} = \\ \frac{\text{Previous maximum annual Assessment} \times \text{current CPI}}{\text{Base CPI}} \end{aligned}$$

The increased maximum annual Assessment for each successive year shall be adjusted in accordance with the formula set forth above except that the Consumer Price Index number for the month and year of the expiration of each annual calendar period shall be substituted as the "Current CPI".

(b) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual Assessment may be increased above the amount or amounts calculated pursuant to the formula in Sub-Paragraph (a) above by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual Assessment at an amount not in excess of the maximum.

5.04 Special Assessments for Capital Improvements. In addition to the annual Assessments authorized above, the Association 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 Elements, including fixtures and personal property related thereto, provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

5.05 Notice and Quorum for Any Action Authorized Under §§5.03 and 5.04. Written notice of any meeting called for the purpose of taking any action authorized under §§5.03 or 5.04 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies 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, subsequent meetings may be called subject to the same notice requirement, and the required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum, at the immediately preceding meeting, and so on until a quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.06 Uniform Rate of Assessment. As provided in §5.03 hereof, both annual and special Assessments shall be fixed at a uniform rate for all Units and may be collected on a monthly basis.

5.07 Certificate of Payment. The Association shall, upon demand, furnish to any Owner liable for Assessments a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Condominium Unit have been paid and the amount of delinquency, if any. A reasonable charge may be collected by the Board for the issuance of each such certificate. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

5.08 Date of Commencement of Assessments. Regular and other Assessments as to the Condominium Units within the Property shall commence as to all such Condominium Units on the first day of the month following the conveyance of the first Condominium Unit by Declarant to an Owner. As provided in §33-1255 of the Act, until the Association makes an Assessment, the Declarant shall pay all Common Expenses of the Property.

5.09 Reduction or Abatement of Regular Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the regular Assessments or may abate collection of regular Assessments as it deems appropriate.

5.10 No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation: (i) a claim that the Association is not properly exercising its duties and powers as provided in this Declaration or (ii) an Owner has made or elects to make no use of the recreational facilities.

5.11 Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Declaration (whether such liens are now in existence or are created at any time in the future), the benefit of any homestead or exemption laws of the State of Arizona now in effect, or in effect from time to time hereafter.

ARTICLE VI EFFECT OF NON-PAYMENT OF ASSESSMENTS AND REMEDIES

6.01 Delinquency. Any Assessment which is not paid when due is delinquent. Whenever an Assessment is delinquent, the Board may at its option, invoke any or all of the sanctions provided for herein.

6.02 Late Charge. If any Assessment is not paid within Fifteen (15) days after it becomes due and payable, the Owner shall be obligated to pay the late charge then provided for in the By-Laws. The amount of such late charge until paid shall constitute part of the Assessment lien as provided for in §5.01 of this Declaration.

6.03 Interest. If any Assessment is not paid within Thirty (30) days after it becomes due and payable, interest at the rate of Ten Percent (10%) per annum may be assessed on the amount owing from the due date until such time as it is paid.

6.04 Action at Law. The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay same or, upon compliance with the notice provisions herein, to foreclose the Assessment lien; provided, however, that the Association's choice of one (1) remedy shall not prejudice or constitute a waiver of the Association's right to exercise the other. The costs of preparing and filing the complaint shall be assessed against the delinquent Owner and his, her, or its Condominium Unit and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest and/or late charges, if appropriate) in the event that a judgment is obtained by the Association. Each Owner vests in the Association or its assigns the right and power to bring actions at law and/or lien foreclosures against such Owner or Owners for the collection of delinquent Assessments.

6.05 Notice of Lien. No action shall be brought to foreclose an Assessment lien at a time less than Thirty (30) days after the date that a certified or registered notice of claim of lien is deposited in the United States Mail, postage prepaid, to the Owner of

the applicable Condominium Unit and a copy thereof is recorded by the Association in the Office of the County Recorder of Maricopa County, Arizona.

6.06 Foreclosure Sale. Any foreclosure sale provided for in this Declaration is to be conducted in accordance with applicable provisions relating to the foreclosure of deeds of trust in the State of Arizona, as set forth in §33-1256 of the Act. The Association, upon approval by a majority vote of the Owners, may through its duly authorized agents have and exercise the power to bid on the Condominium Unit.

6.07 Suspension of Votes. The Board shall suspend for the entire period during which any Assessment remains delinquent the obligated Owner's right to vote on any matter at regular or special meetings of the Association.

6.08 Suspension of Recreational Privileges. The Board shall also suspend for the entire period during which any Assessment remains delinquent the obligated Owner's right to the use of the recreational facilities of the Property.

ARTICLE VII INSURANCE

7.01 Insurance. Insurance shall be obtained by the Association upon the Property pursuant to the terms and conditions of this Article.

7.02 Authority to Purchase. The Board shall purchase and maintain certain insurance upon the Property, including, but not limited to, the insurance described in §7.03 below, which insurance is to be purchased by the Association for the benefit of the Association, the Unit Owners, and the First Mortgagees, as their interests may appear. Provisions shall be made for the issuance of Certificates of Endorsement to the First Mortgagee of any first mortgage. Such policies and endorsements thereon, or copies thereof, shall be deposited with the Association. The Board shall deliver a copy of the policies to determine whether particular items are included within the coverage so that the Unit Owners may insure themselves as they see fit in the event certain items are not insured by the Association. Without limiting the generality of the foregoing, it shall be each Owner's responsibility to provide Owner's liability insurance, theft, or other insurance covering personal property damage and loss, insurance for each Owner's personal liability, and such other insurance which is not carried by the Association and is otherwise desired by the Unit Owner.

7.03 Coverage. The Association shall obtain the following policies of insurance and shall maintain said policies in full force and effect:

- (a) A multi-peril policy covering this entire Condominium Project providing, at a minimum, fire and extended coverage, and all other coverage in kind and amount customarily acquired or required for projects similar in construction, location and use, including, but not limited to,

vandalism and malicious mischief, in an amount not less than One Hundred Percent (100%) of the insurable value based upon replacement cost.

(b) A comprehensive policy of public liability insurance covering all of the Common Elements and public ways in the Condominium Project in a minimum of at least One Million Dollars (\$1,000,000.00) per occurrence, for personal injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association and its agents, or other Unit Owners. The scope of such coverage shall include all other coverage in the kind and amount customarily acquired or required for projects similar in construction, location, and use.

(c) If there is a steam boiler in operation in connection with the Condominium Project, there must be in force, boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy and providing, as minimum coverage, Fifty Thousand Dollars (\$50,000.00) per accident per location.

(d) If the Condominium Project is located in an area designated by the Secretary of Housing and Urban Development as an area prone to special flood hazards, a "blanket" policy of flood insurance on the Condominium Project must be maintained in the amount of the outstanding principal balances of the first mortgage loans on the Units comprising the Condominium Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less.

(e) The Association must obtain Fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees, or volunteers responsible for handling funds belonging to or administered by the Association. The Fidelity Bond or Insurance must name the Association as the insured and shall be written to provide protection which is, in no event, less than one and one-half (1½) times the insider's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any Person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

(f) A Workmen's Compensation Policy, if necessary, to comply with the requirements of Arizona Law.

(g) Such other insurance as the Board shall determine from time to time to be desirable.

7.04 Provisions Required. The insurance policies purchased by the Association shall, to the extent possible, contain the following provisions:

(a) The coverage afforded by such policies shall not be brought into contribution or proration with any insurance which may be purchased by Unit Owners or First Mortgagees;

(b) The conduct of any one or more Unit Owners shall not constitute grounds for avoiding liability on any such policies;

(c) There shall be no subrogation with respect to the Association, its employees or agents, Unit Owners, and members of their household, their families and employees, or the policy or policies should name said Persons as additional insurers;

(d) A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association, its agents or employees, or other Owners;

(e) A statement in the name of the insured shall be included in all policies, in form and substance similar to the following:

"THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION, for the use and benefit of the individual Owners"
(designated by name, if required);

(f) A standard mortgagee clause which must be endorsed to provide any proceeds shall be paid to THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION, for the use and benefit of First Mortgagees as their interest may appear, or which must be otherwise endorsed to fully protect the interest of First Mortgagees, their successors and assigns;

(g) For policies of hazard insurance, a standard mortgagee clause shall provide that the insurance carrier shall notify the First Mortgagee named at least Ten (10) days in advance of the effective date of any reduction in or cancellation of the policy;

(h) Any "no other insurance clause" shall exclude insurance purchased by Unit Owners or First Mortgagees.

7.05 First Mortgagee Protection. The Association shall provide each First Mortgagee with a letter wherein the Association agrees to give written notice to each First

Mortgagee, or servicer of a mortgage, or any entity or Person designated by such First Mortgagee or servicer, whenever the damage to a Unit covered by a first mortgage exceeds One Thousand Dollars (\$1,000.00) or damage to the Common Elements and related facilities exceeds Ten Thousand Dollars (\$10,000.00). Each hazard insurance policy shall be written by a hazard insurance carrier which has a financing rating by Best's Insurance Reports of Class VI or better, or if such rating be discontinued, by a successor thereto or a similar such rating service. Each insurance carrier must be specifically licensed or authorized to transact business within the State of Arizona. In no event shall policies purchased or utilized by the Association where, under the terms of the carrier's charter, By-Laws, or policy, contributions or Assessments may be made against the Unit Owner or First Mortgagee or any entity or Person purchasing or guaranteeing any first mortgage; where by the terms of the carrier's charter, By-Laws or policy, loss payments are contingent upon action by the carrier's Board of Directors, policy holders or members; or where the policy contains any limiting clauses (other than standard insurance conditions) which could prevent any Unit Owner of the First Mortgagee, its successors or assigns, from collecting insurance proceeds. The mortgagee clause of each insurance policy shall be properly endorsed, and there must have been given necessary notices of transfer, and any other action taken required to be taken to fully protect, under the terms of the policies and applicable law, the interest of all First Mortgagees, successors, and assigns. Where permissible, the insurance carrier shall be required to name the servicer of a first mortgage, as follows: "(name of servicer) or assigns," as First Mortgagee under the mortgagee clause. If permissible, where a deed of trust is utilized, the insurance carrier shall be required to designate the mortgagee clause "(name of servicer), beneficiary" or "(name of trustee) for the benefit of (name of servicer)" instead of naming the trustee under the deed of trust in the mortgagee clause. All insurance drafts, notices, policies, invoices, and all other similar documents, or their equivalent, shall be delivered directly to each servicer involved, regardless of the manner in which the mortgagee clause is endorsed. The servicer's address on any First Mortgagee endorsement on a policy shall be utilized in the endorsements in lieu of the address of the First Mortgagee, if so requested by the First Mortgagee. First Mortgagees may pay overdue premiums, or may secure new insurance coverage upon the lapse of the policy, with respect to any insurance required to be maintained by the Association as provided for in this Article VII and First Mortgagees so making expenditures therefor shall be owed immediate reimbursement by the Association.

7.06 Non-Liability of Association and Board. Notwithstanding the duty of the Association to obtain insurance coverage as stated herein, neither the Association nor any Board Member shall be liable to any Owner or any other party if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate. It shall be the responsibility of each Unit Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection that said Unit Owner may desire.

7.07 Premiums Upon Insurance Policies Purchased by the Association. Premiums upon insurance policies purchased by the Association shall be paid by the

Association as a common expense except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy, or abandonment of a Condominium Unit or its appurtenances, or of the Common Elements by an Owner, shall be assessed against that particular Owner.

7.08 Insurance Claims. The Association, acting by and through its Board, is hereby irrevocably appointed agent for each Owner and for each holder of a first mortgage or other lien upon a Unit, and for each Owner of any other interest in the Property, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, the Board having full and complete power to act for the Association in this regard.

7.09 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and First Mortgagees, as their interests may appear.

ARTICLE VIII EASEMENTS

8.01 General Easements to Common Elements. Subject to this Declaration and the Association Rules, non-exclusive, reciprocal easements are hereby reserved and created for the purpose of support, ingress and egress, access, use, and enjoyment in favor of each Owner, upon, across, over, under, and through the Common Elements, including the use of all pipes, wires, ducts, flues, cables, conduits, and public utility lines and recreational facilities, which easements shall be appurtenant to each Condominium Unit. The Association, acting through the Board or its authorized agent, and public utility companies providing service to the Property, shall have non-exclusive easements with the right of access to each Condominium Unit to make inspections, to remove violations, to maintain, repair, replace, or effectuate the restoration of the Common Elements accessible in such Unit; provided, however, such rights shall be exercised in a reasonable manner and at reasonable times with prior notification, unless emergency situations demand immediate access.

8.02 Public Utilities. Easements and rights over the property for the installation and maintenance of electricity lines, telephone lines, cable television, water lines, gas lines, sanitary sewer lines, drainage facilities, and such other public utilities needed to serve the Property are hereby reserved unto the Association, together with the right to grant and transfer same; provided, however, such easements and rights shall not unreasonably interfere with the use of the Common Elements and the Condominium Units by the Owners or Occupants.

8.03 Easements for Encroachments. If any portion of the Common Elements now encroaches upon any Condominium Unit, or if any Condominium Unit on the Common Elements, or if any such encroachment shall occur hereafter as a result of the

manner in which the Buildings have been constructed or due to settling, shifting, alteration, replacement, repair, or restoration by Declarant or the Association, a valid easement for encroachment shall exist so long as the Buildings stand.

8.04 Development Easements for Declarant. So long as Class B Membership in the Association remains outstanding, or so long as the Declarant continues to offer Condominium Units for sale in the ordinary course of business, as provided in §4.03 hereof, there are hereby reserved to Declarant, together with the right to grant and transfer the same to others, including Declarant's sales agents, representatives, and assigns, easements and rights upon, over, under, and through the Property (exclusive, however, of Condominium Units not owned by Declarant) for display (including the use of signs and other advertising devices) in connection with the maintenance and sale or lease of Condominium Units within the Property; provided, however, that no such use by Declarant or her, his, or its agents shall otherwise restrict Owners or Occupants in the reasonable use and enjoyment of their Condominium Units.

8.05 Parking. Each Owner shall have an exclusive easement to use the parking space or spaces set forth on the Plat as designated in a separate written instrument by the Declarant prior to its conveyance of the first Unit to an Owner. Such exclusive parking easement shall be appurtenant to the respective Condominium Unit, and may not be severed from the ownership of such Condominium Unit.

8.06 Patios and Balconies. The Condominium Unit Owners have exclusive easements upon, within, across, and over the storage or utility rooms and the patios and balconies which are appurtenant to, and considered a Limited Common Element of, their respective Unit or Units, as designated and indicated on the Plat.

ARTICLE IX USE RESTRICTIONS

9.01 Conditions of Use and Occupancy. The use and occupancy of the Property shall be in conformance with all deed restrictions and zoning and other ordinances, rules, and regulations of all appropriate governmental agencies and, subject to the foregoing, shall be in accordance with the provisions set forth in this Article IX so long as the Condominium created hereby exists.

9.02 Residential Use. The Property shall be used exclusively for residential purposes and each Condominium Unit shall be improved, used, and occupied as a separate dwelling Unit. Unless specifically approved by the Board, no part of the Property may be used for any business, commercial, manufacturing, storing, vending, or any non-residential purposes. However, nothing contained herein shall be construed to prevent the Declarant, its agent, or employees, from engaging in all forms of maintenance and sales activities within the Property, including use of the Condominium Units owned by the Declarant as models, until such time as the Class B Membership in the Association has been converted to Class A Membership, or until Declarant ceases to offer

Condominium Units for sale in the ordinary course of business, as set forth in §4.03 hereof.

9.03 Signs. No sign of any kind shall be displayed to public view from any portion of the Property without the approval of the Board. Notwithstanding the foregoing, a single sign of reasonable dimension advertising a Condominium Unit for sale or rent may be placed by the Owner, or his agent, within the Condominium Unit or immediately adjacent thereto located on the Common Elements, subject to reasonable regulation by the Board. Nothing herein contained shall prevent Declarant, and its agents, employees, and assigns from utilizing reasonable signs, flags, markers, and sales devices in furtherance of sales activities until the latter of the date (1) when Class B Membership in the Association has been converted to Class A Membership, or (2) until Declarant ceases to offer Condominium Units for sale in the ordinary course of business, as set forth in §4.03 hereof.

9.04 Nuisance. No nuisances shall be allowed on the Property, nor any use or practice which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by its residents. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate, nor shall any hazard be allowed to exist. No Owner of a Unit shall permit or suffer anything to be done or kept upon his Unit or to make any use of his Unit which will increase the rate of insurance upon the Property or any part thereof. No Unit Owner shall permit animal feces to be deposited upon or remain upon the Property or any part thereof.

9.05 Leasing. Any agreement for the leasing or rental of any Condominium Unit (hereinafter referred to as in this Section as a "Lease") shall provide that the terms of such Lease or Rental shall be subject in all respects to the provisions of this Declaration, By-Laws, and the Association Rules. Any written Lease or Rental Agreement shall further provide that any failure by the Occupant thereunder to comply with the terms of the foregoing documents shall be a default under the Lease or Rental Agreement. Subject to the provisions of this §9.05, a Condominium Unit may not be leased for transient or hotel purposes which shall be defined as rental for any period of less than Thirty (30) days. Any Owner who shall lease his, her, or its Unit shall be responsible for assuring compliance by the Occupancy with this Declaration, the By-Laws, and the Association Rules. Failure by an Owner to take legal action, including the institution of a forcible entry and detainer proceeding against his, her, or its Occupant who is in violation of this Declaration, the By-Laws, or the Association Rules within Ten (10) days after receipt of written demand to do so from the Board, shall entitle the Association, acting by and through the Board, to take any and all such actions including the institution of proceedings and forcible entry and detainer on behalf of such Owner against his Occupant. Any expenses incurred by the Association, including reasonable attorneys' fee and costs of suit, shall be repaid to it by such Owner. Failure of such Owner to make such repayment within Ten (10) days after receipt of a written demand therefor shall entitle the Board to levy a special Assessment against such Owner and his Condominium

Unit for all such expenses incurred by the Association. In the event such special Assessment is not paid within Thirty (30) days of its due date, the Board may resort to all remedies of the Association for collection thereof.

9.06 Temporary Structures. No structure or building of a temporary character, including a tent or shack, shall be placed upon the Property or used therein unless the same and its proposed use are approved by the Board. Nothing herein contained shall be construed as to prevent the Declarant from using temporary structures or trailers for construction or sales purposes or engaging in all forms of maintenance and sales activities within the Property.

9.07 Parking. Unless otherwise permitted by the Board, no motor vehicle (including a motorcycle), trailer, camper, boat, or similar item, and no bicycle shall be permitted to remain upon the Property except in spaces designated for such use; provided, however, temporary parking of motor vehicles shall be permitted. For purposes hereon, "temporary parking" shall mean parking of vehicles belonging to invitees of Owners and Occupants, parking of delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of goods and services to the Association or to the Owners and Occupants as well as parking of vehicles belonging to and being used by Owners, Occupants, and invitees for loading and unloading purposes. Except for temporary parking as hereinabove defined, no buses, vans, trucks, or other vehicles having a carrying capacity in excess of three-quarters (3/4) tons or designed for commercial purposes shall be maintained or parked upon the Property except with the prior written approval of the Board. The Board may adopt Association Rules relating to the admission and temporary parking of vehicles within the Property.

Nothing herein contained shall be construed as preventing the Declarant from using temporary structures or trailers for maintenance and/or sales purposes or engaging in all forms of maintenance and sales activities within the Property.

9.08 External Fixtures. No external items such as, but not limited to, television and radio antennas, flag poles, clotheslines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, sunshades, walls, landscaping and planting, other than those provided in connection with the original construction of the Property, and any replacements thereof, and other than those approved by the Board and any replacements thereof, shall be constructed, erected, or maintained on the Property, including any Buildings thereof. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of maintenance and sales activities within the Property. The Association may maintain in effect or cause to be maintained in effect a cable television system or systems, which shall provide connections to each Condominium Unit via underground or internal wall wiring, or a combination thereof.

9.09 Window Covers. Only curtains, drapes, and shades may be installed as window covers. No window shall be covered by paint, foil, sheets, or similar items. The Board may adopt Association Rules regulating the type, color, and design of the external surface of window covers.

9.10 External Laundering. Unless otherwise permitted by the Board, external laundering and drying of clothing and other items is prohibited.

9.11 Outside Speakers and Amplifiers. No radio, stereo, broadcast, or loudspeaker units and no amplifiers of any kind shall be placed upon or outside or be directed to the outside of any Building without the prior written approval of the Board.

9.12 Repairs. No repairs of any detached machinery, equipment, or fixtures, including, without limitation, motor vehicles, shall be made upon the Property.

9.13 Oil and Mineral Activity. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon the surface of the Property, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be installed upon the surface of the Property or within Five Hundred (500) feet below the surface of the Property. No derrick or other structure designated for use in boring for water, oil, or natural gas shall be erected, maintained, or permitted upon the Property.

9.14 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept upon the Property, except that dogs, cats, or other household pets may be kept within a Condominium Unit provided they are not raised, bred, kept, or maintained for any commercial purpose, and provided that an Owner shall not maintain more than two (2) household pets in any Condominium Unit. Notwithstanding the foregoing, no animal or fowl may be kept within a Condominium Unit which, in the good faith judgment of the Board, results in an annoyance or is obnoxious to Owners or Occupants within the Property. All animals permitted to be kept by this Section shall be kept on a leash when on any portion of the Property except within a Condominium Unit. The Board may adopt Association Rules applicable to the provisions of this Section and to the keeping of pets within the Property, and their enforcement.

9.15 Rules and Regulations. The Association shall have the power to make and adopt reasonable Association Rules with respect to activities which may be conducted on any part of the Property. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate such Association Rules shall be conclusive unless, at a regular or special meeting of the Association, Owners representing a majority of the voting power of the Association vote to be the contrary.

ARTICLE X DESTRUCTION OF IMPROVEMENTS

10.01 Damage and Repair. If all or any part of the Condominium Property or any Property in which the Association owns an interest is damaged or destroyed by fire or other hazard, the determination as to whether said Property shall be repaired or reconstructed shall be made in accordance with the provisions of this Article X.

10.02 Common Elements. If the damaged Property is part of the Common Elements or any Property in which the Association owns an interest, it shall be repaired or reconstructed, unless it is determined in the manner provided in §10.03 below that the Condominium shall be terminated (in the event the damaged Property contains no Condominium Units).

10.03 Units. If the damaged Property is a Building or Buildings containing Condominium Units, the damage shall be repaired and reconstructed, unless within Sixty (60) days after the loss or damage, Eighty Percent (80%) of the Owners, and their respective First Mortgagees, of all of the Units (including 100% of all of the Owners of Units or allocated Limited Common Elements which will not be rebuilt, and their respective First Mortgagees) vote not to repair or reconstruct the damaged Property; then, and in such event, the Condominium Unit will be terminated as provided in this Article X.

10.04 Construction. Any repair or construction must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by the Board and a majority of the Owners. If the loss or damage is only to those parts of a Condominium Unit or Condominium Units for which the responsibility of maintenance and repair is borne by the Condominium Owner, then the Condominium Owner shall be responsible for repair and reconstruction; provided, however, to the extent that any insurance proceeds collected are attributable to the Units and not the Common Elements, the share of the proceeds attributable to the Condominium Units shall be used for repairs and reconstruction of the Condominium Units. Immediately after determination is made to repair or reconstruct damage to Property for which the Association has the responsibility for repair and reconstruct, the Association shall obtain reliable and detailed estimates of the costs of the repair or reconstruct. In the case of damaged Common Elements, if the proceeds of insurance are not sufficient to defray the estimated costs of construction or repair by the Association, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds to pay the estimated costs. Additional Assessments may be made at any time during or following the completion of construction. Such Assessments against Unit Owners for damage to Condominium Units shall be in proportion to the cost of reconstruction and repair of their respective Condominium Units. Such Assessments on account of damage to Common Elements shall be in proportion to the Owners' Allocated Interest in the Common Elements.

10.05 Insurance Trustee. Except for loss or damage which is less than One Percent (1%) of the value of the Condominium Project, all insurance proceeds payable on account of damage or loss to the Condominium Project shall be paid to any bank in

Arizona which is selected as a Trustee by the Board, which bank is hereinafter referred to as the "Insurance Trustee". The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds. Insurance proceeds payable on account of loss or damage which equals less than One Percent (1%) of the value of the Condominium Project shall be payable to and be used by the Association to repair such loss or damage. The duty of the Insurance Trustee shall be to receive the insurance proceeds that are paid, and to hold them in trust for and on behalf of the Unit Owners and the First Mortgagees; an undivided share of such proceeds on account of damage to Common Elements shall be allocated to the Unit Owners according to their respective Allocated Interest therein. Proceeds, if any, on account of damage to Condominium Units shall be held for the Owners of said damage Units in proportion to the costs of repairing the damage suffered by each Unit Owner, which costs shall be determined by the Association. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the Unit Owner and for their First Mortgagee, as their interest may appear.

10.06 Manner of Disbursement. The proceeds from Assessments and insurance received by the Insurance Trustee shall be disbursed in the following manner: (a) that portion of the insurance proceeds, if any, representing damage, the reconstruction and repair of which is the responsibility of the Condominium Unit Owner, shall be paid by the Insurance Trustee to the Unit Owner, or if there is a mortgagee endorsement then to the Unit Owner and the First Mortgagee jointly, who may use such proceeds as they may determine; provided, however, to the extent that any damage to a Condominium Unit affects proceeds must be used for reconstruction and repair of such damage; (b) the portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the Association, shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board and upon the approval of an architect qualified to practice architecture in the State of Arizona and employed by the Association to supervise the work; and (c) the Insurance Trustee shall not be required to determine whether a disbursement is to be made, the identity of the payee, or the amount to be paid, but may rely upon a Certificate of the Board acting for and on behalf of the Association stating such information.

10.07 Performance of the Work. All repairs and construction work shall be done by licensed contractors, of good reputation. Payment Bonds, Performance Bonds, and Statutory Lien Bonds may, but need not, be required in the discretion of the Board, but any and all work performed shall be done pursuant to written contractual agreements.

10.08 Termination. If it is determined pursuant to the provisions of §10.03 of this Article X that the Building or Buildings containing Condominium Units shall not be repaired or reconstructed because of damage or destruction, then and in such event, this Condominium shall be terminated pursuant to the provisions of §§33-1228 and 33-1253 of the Act.

ARTICLE XI FIRST MORTGAGEES

11.01 Rights in General. Notwithstanding any other provisions of this Declaration, the Articles of Incorporation, By-Laws, or any Rules, Regulations, or management agreements to the contrary, the provisions set forth in this Article XI shall apply to and benefit each holder of a first mortgage upon a Unit.

11.02 No Right of First Refusal Permitted. The right of a Unit Owner to sell, transfer, or otherwise convey his, her, or its Unit shall not be subject to any right of first refusal or similar restriction to any other Person or entity.

11.03 Foreclosure or Trustee Sale. Any First Mortgagee or third party purchaser at a foreclosure sale or trustee sale under a Deed of Trust who obtains title to a Unit pursuant to the remedies provided for in the first mortgage for foreclosure of the mortgage will not be liable for such Unit's unpaid dues, charges, or Assessments, which may accrue prior to the acquisition, including the expiration of any period of redemption, of title to such Unit by the First Mortgagee.

11.04 Prior Approvals. Unless all of the First Mortgagees, who have provided written notification to the Association of their respective desire to be informed of and to approve in advance the matters hereinafter set forth in this §11.04 (based upon one (1) vote for each first mortgage owned), and Eighty Percent (80%) of the then Class A Ownership, or such higher percentage as may be required in this Declaration or by applicable law, have given their prior written approval, the Association shall not be entitled to

(a) by act or omission, seek to abandon or terminate this Declaration or the Condominium hereby established except as set forth in Article X hereof;

(b) change the Allocated Interest or obligation of any individual Unit for the purpose of levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or determining the Allocated Interest of each Unit in the Common Elements, except as set forth in Article X hereof;

(c) partition or subdivide any Condominium Unit or Units;

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

(c) use hazard insurance proceeds payable or paid due to losses to any Condominium Units or to the Common Elements, for other than the repair, replacement, or construction of such Condominium Property, except as provided herein or by the Act. First Mortgagees shall have the right to participate in the adjustment and settlement of any claim under any insurance maintained by the Association.

11.05 Taxes, Assessments, and Charges. All taxes, Assessments, and charges which may become liens prior to a first mortgage under local law shall relate only to the individual Unit and not to the Condominium as a whole.

11.06 Priority. No provision of the documents set forth in §11.01 hereof shall give a Unit Owner, or any other party, priority over any rights of the First Mortgagee of the Units pursuant to its first mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses or taking of the Units or Common Elements.

11.07 Amenities. All amenities pertaining to the Condominium Project and located on the Property, such as driveways, recreation, and service areas, if any, are a part of the Condominium Project and shall be covered by and be subject to a mortgage on a Unit to the same extent as are the Common Elements.

11.08 Written Notification. A First Mortgage, upon request, shall be entitled to written notification from the Association of (1) any default in the performance by the Unit mortgagor pursuant to the documents specified in §11.01 hereof, which default is not cured by said Unit mortgagor with a period of Thirty (30) days; (2) any condemnation or eminent domain proceeding affecting any portion of the Property; or (3) any substantial damage or destruction to the Common Elements to the extent and as provided in §7.05 hereof.

11.09 Books and Records. The Association shall be required to make available to Unit Owners, First Mortgagees, and insurers and guarantors of the first mortgage upon any Unit, current copies of this Declaration of Establishment of Condominium and Covenants, Conditions, and Restrictions, Articles of Incorporation, By-Laws, and other Rules and Regulations governing the Condominium, as may be effect from time to time, and other books, records, and financial statements of the Association. The Association shall also be required to make available to any and all prospective purchasers of any Unit current copies of this Declaration of Establishment of Condominium and Covenants, Conditions, Articles of Incorporation, By-Laws, and other Rules and Regulations governing the Condominium, and the most recent annual audited financial statement, if such is prepared. The term "available" as utilized within this §11.09 shall be deemed to mean and refer to, at a minimum, that the above-referenced documentation be made available by the Association for inspection, upon request, during normal business hours, or under other reasonable circumstances.

11.10 No Personal Liability. Except as otherwise provided in this Article XI, a First Mortgagee 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, By-Laws, or Management Agreement, except for those matters which are enforceable by injunctive or other equitable relief, not requiring the payment of money.

11.11 Breach. An action to abate the breach of any of these covenants, conditions, reservations, and restrictions set forth in this Declaration (other than a claim for prior assessment liens as set forth in §11.14 below) 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 or purchasers acquired an interest in such Unit.

11.12 Exercise of Ownership Rights and Privileges. During the pendency of any proceedings to foreclosure a first mortgage (including any period of redemption) or from the time the trustee under the first deed of trust has given notice of sale pursuant to the power of sale conferred under a deed of trust and pursuant to the law, the First Mortgagee, 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 the 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.

11.13 Obligation to Pay Assessments and Charges. At such time as the First Mortgagee shall become record Owner of a Unit, the First Mortgagee 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 and on the same terms as any other Unit Owner.

11.14 Prior Assessment Liens. The First Mortgagee, or any other party acquiring title to a mortgage Unit through foreclosure of the first mortgage or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure or acquiring title at a Trustee's Sale under a first Deed of Trust, shall acquire title free and clear of any lien authorized by or arising out of any of the provisions of this Declaration which secures the payment of any Assessment for charges accrued prior to the final conclusion of any such foreclosure or equivalent proceedings, including the expiration day of any period or redemption. Nevertheless, in the event the Unit Owner against whom the original Assessment was made is the purchaser or redemptionor, the lien shall continue in effect and the said lien may be enforced by the Association, or by the Board of the Association, for the respective Unit 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 said Owner is no longer a member of the Association.

11.15 Subordination of Assessment Liens. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereinafter placed upon any Unit; provided that such first mortgage is in favor of a bank, savings and loan association, insurance company, mortgage banker, other institutional lender, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or their successors and assigns, or is guaranteed or insured respectively by the Veterans Administration or the United States Department of Housing and Urban Development/Federal Housing Administration, or their respective successors and assigns. The lien of the Assessments provided for herein shall not be affected by any sale or transfer of the Unit except that a sale or a transfer pursuant to the foreclosure of a first mortgage, as herein defined, shall extinguish the subordinate lien of the Assessments provided for herein which became payable prior to such sale or transfer. Any such sale or transfer pursuant to a foreclosure of a first mortgage shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit so sold or transferred from the lien of, any common expense charges secured by the lien of the Assessments provided for herein which thereafter becomes due.

11.16 No Reversion or Foreclosure. Notwithstanding any other provisions in the documents specified in §11.01 hereof, no provision of this Declaration or of said documents relating to costs, use, set-back, minimum size, building materials, architectural, aesthetic, or similar matters shall provide for reversion or foreclosure of title to a Unit in the event of violation thereof. No breach or any other violation of any provisions of the documents specified in §11.01 hereof shall affect, impair, defeat, or render invalid the interest or lien of any First Mortgagee.

11.17 Rights, Privileges, and Powers of First Mortgagees; Interpretation. Notwithstanding and prevailing over any and all provisions hereof, no amendment to this Declaration shall be made or become effective which in any way affects, diminishes, or impairs any of the rights, privileges, or powers granted to any First Mortgagee, or which is in any way inconsistent with the customary rules, regulations, or requirements of institutional First Mortgagees or their assigns or successors, without the prior written consent of all First Mortgagees. First Mortgagees shall have the right to enforce against Unit Owners, the Association, and all others, any and all provisions of this Declaration including, without limitation, the provisions set forth in this Article XI. Said enforcement by First Mortgagees may be by injunction, mandatory or prohibitory, or any other lawful procedure. This Declaration shall be interpreted in conformity with all Rules, Regulations, and requirements of institutional mortgage holders, and of the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Veterans Administration ("VA") and the United States Department of Housing and Urban Development/Federal Housing Administration ("HUD"), applicable to guaranteed, approved, or insured mortgages on Condominiums (if the VA or HUD guaranteed, approved, or insured mortgages on approve, any first

mortgage on any Condominium Unit), in effect as of this date or as hereafter amended, and any provision hereof which is inconsistent therewith shall be deemed modified to conform thereto. The Articles, By-Laws, and all Rules and Regulations of the Association shall be governed by this Declaration and all provisions thereof which are inconsistent herewith shall be null and void.

ARTICLE XII EMINENT DOMAIN

12.01 Effect of Condemnation. If a portion of the Common Elements should be taken by the exercise of the power of eminent domain, or should be transferred and conveyed to a condemning authority in the anticipation of such exercise, the entire award made as compensation for such taking including, but without limitation, any amount awarded as severance damages, or the entire amount received and paid in anticipation of such taking, after deducting therefrom in each case, reasonable and necessary costs and expenses, including, but without limitation, attorneys' fees, appraisers' fees, and court costs (which net amount is hereinafter referred to in this Article XII as the "Award") shall be paid to the Board as Trustee for all Owners and First Mortgagees. If the portion of the Common Elements taken or conveyed shall not be comprised of or include, all or any part of a Building, as soon as practicable, the Board shall cause the Award to be utilized for the purpose of repairing and restoring the Property, including, if the Board deems it necessary or desirable, the replacement of any improvements so taken or conveyed; provided, however, all First Mortgagees then of record with reference to the Units, shall be notified in writing, and if a majority object to such repairing or restoring within Ten (10) days after written notice, then the Board may act only with the approval of such a majority. If the portion of the Common Elements taken or conveyed is comprised of, or includes all or any part of a Building, the award, unless the Eminent Domain Decree otherwise provides, shall be paid to the Owner or Owners of the Unit or Units taken by Eminent Domain, and their respective First Mortgagees, as their interests may appear, said Award to be applied and paid to said affected Unit Owners and First Mortgagees in proportion to their respective Allocated Interest in the Common Elements appurtenant to their respective Unit ownership as set forth in §3.06 hereof. In the event of a partial taking of Common Elements comprised of or including all or any part of a Building, the Allocated Interests of the Units not taken or acquired by Eminent Domain shall be reallocated as provided and set forth in §33-1206 of the Act. If all of the Buildings and all of the Units of this Condominium contained therein are acquired or taken by the power of Eminent Domain, the Condominium shall be terminated pursuant to the provisions of §33-1228 of the Act; provided, however, that any net award or proceeds payable to a Unit Owner upon termination of the Condominium shall be paid, as appropriate, to the Unit Owners and their respective First Mortgagees, as their interests may appear.

ARTICLE XIII LIMITATIONS UPON PARTITION AND SEVERANCE

13.01 No Partition: The right to partition the Property is hereby suspended, except that the right to partition shall revive and the Property may be sold as a whole when the conditions for such action set forth in Article X dealing with destruction of improvements, and Article XII dealing with eminent domain have been met; provided, however, nothing contained in this Section shall be construed as limiting partition by joint Owners, upon the prior written approval of an applicable lender, of one (1) or more Condominium Units as to individual ownership of such Condominium Units, provided the Condominium is not terminated.

13.02 No Severance. The elements of a Condominium Unit and other rights appurtenant to the ownership of a Condominium Unit, including exclusive easements over the Common Elements, if any, are inseparable, and each Owner agrees that he, she, or it shall not, while this Declaration is in effect, make any conveyance of less than the entire Condominium Unit and such appurtenances. Any conveyance made in contravention of this Section shall be void.

13.03 Proceeds of Partition Sale. If an action brought for the partition of the Property by sale, whether upon the occurrence of any event of destruction and decision not to reconstruct or the taking of all or a portion of the Property by Eminent Domain, Owners shall share in the proceeds of such sale in the same proportion as their respective Allocated Interest in the Common Elements, but in such event, the liens and provisions of all lenders or Assessment liens encumbering Condominium Units within the Property so encumbered shall extend to each applicable Owner's Allocated Interest in the proceeds of such partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the payment of any Assessment lien or lien of a lender encumbering such proceeds.

ARTICLE XIV RESERVATION OF DEVELOPMENT AND SPECIAL DECLARANT RIGHTS

14.01 Reservation of Development Rights. Pursuant to the provisions of §33-1202(14) of the Act, the Declarant hereby reserves the following Development Rights, such reservation of Development Rights to remain in effect until such time as the Class B Membership of the Association is converted into Class A Membership, or until Declarant ceases to offer Condominium Units for sale in the ordinary course of business, as provided and set forth in §4.03 of this Declaration:

(a) The right to amend this Declaration to comply with any applicable law or to correct any error or consistency herein, if such amendment does not adversely affect the rights of any Unit Owner.

(b) The right to amend this Declaration to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments;

(c) The right to annex (including the right to create Condominium Units within) additional real estate adjoining the Condominium Project which, upon any such annexation, shall constitute part of the Common Elements of the Condominium.

(d) The right to create additional easements over and upon the Common Elements or Limited Common Elements of this Condominium as may be required by governmental or quasi-governmental entities, if such newly created easements do not adversely and materially affect the rights of any Unit Owner.

14.02 Reservation of Special Declarant Rights. The Declarant hereby reserves the following Special Declarant Rights, such reservation of Special Declarant Rights to remain in effect until such time as the Class B Membership of the Association has been converted into Class A Membership, or until Declarant ceases to offer Condominium Units for sale in the ordinary course of business, as provided and set forth in §4.03 hereof:

(a) The right to exercise any Development Right as provided and set forth in §14.01 above; including the right to construct improvements upon any annexed real estate pursuant to §14.01(c) above.

(b) The right to maintain sales offices, management offices, signs advertising the Condominium, and models, as otherwise provided and set forth in this Declaration.

(c) The right to utilize easements through the Common Elements for the purpose of maintaining improvements within the Condominium, as otherwise set forth in this Declaration.

(d) The right to appoint or remove any officer of the Association or any Member of the Board of Directors of the Association.

ARTICLE XV GENERAL PROVISIONS

15.01 Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Restrictions and other provisions now or hereafter imposed by this Declaration, or any amendments thereto, including the right to prevent the violation of any such Restrictions, and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the By-Laws and Association Rules and any respective amendments thereto.

15.02 No Waiver. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the By-Laws or Association Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction provisions.

15.03 Cumulative Remedies. All rights, options, and remedies of Declarant, the Association, the Owners or the First Mortgagees under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the First Mortgagees shall have the right to pursue any one or all of such rights, options, and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Declaration.

15.04 Severability. Invalidity of any one or a portion of the Restrictions or provisions set forth in this Declaration or in the By-Laws or Association Rules by judgment or court order shall in no way affect any other Restrictions or provisions contained herein or therein which shall remain in full force and effect.

15.05 Covenants to Run With the Land; Term. The Restrictions and other provisions of this Declaration shall run with and bind the Property as equitable servitudes and also as covenants running with the land and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of Fifty (50) years from the date this Declaration is recorded, after which time the Restrictions and other provisions shall be automatically extended for successive periods of Ten (10) years, unless an instrument, signed and acknowledged by Owners of Seventy-Five Percent (75%) or more of the Condominium Units within the Property has been recorded within One (1) year prior to the end of any such period, agreeing to change or revoke the Restrictions and other provisions of this Declaration in whole or in part.

15.06 Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the operation of a residential Condominium community and for the maintenance of the Property. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretations or construction.

15.07 Interpretation. This Declaration shall be interpreted in accordance with all Rules, Regulations, and Requirements of the VA, HUD, FNMA, or FLMC, respectively applicable to guaranteed, approved, or insured mortgages, in the event the VA, HUD, FNMA, or FLMC, as the case may be, approves the Condominium Project encompassed hereby and has guaranteed, approved, or insured one (1) or more mortgages in the Condominium Units herein. Interpretation of this Declaration in accordance with the above Rules, Regulations, and requirements of the VA, HUD, FNMA, or FLMC, as the case may be, shall be made as of the date of this Declaration or as hereinafter amended, and any provision hereof which is inconsistent therewith shall be deemed

modified to conform to said Rules, Regulations, and Requirements. In any event, if there is any conflict between or among the Act, this Declaration, the Articles of Incorporation, the By-Laws, or the Rules and Regulations of the Association, the provisions of the Act shall govern and prevail; thereafter, priority shall first be given to this Declaration, then to the Articles, then to the By-Laws, and then to the Rules and Regulations of the Association.

15.08 Gender and Number. Whenever the context of this Declaration requires the singular shall include the plural, and vice-versa, and the masculine shall include the feminine and the neuter and vice-versa.

15.09 Nuisance. The result of every act or omission whereby any provision or Restriction contained in this Declaration or any provision contained in the Articles, By-Laws, or Association Rules is violated, in whole or in part, is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof, and may be exercised by the Association, or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

15.10 Attorneys' Fees. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the By-Laws, or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto, as part of the judgment, reasonable attorneys' fees and costs of suit.

15.11 Notices. Any notice to be given to an Owner, a First Mortgagee, or the Association under the provisions of this Declaration shall be in writing and shall be delivered as follows:

(a) Notice to an Owner shall be delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Board for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Condominium Unit. Any notice so deposited in the mail shall be deemed delivered Seventy-Two (72) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners.

(b) Notice to a First Mortgagee shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such First Mortgagee in writing to the Board for the purpose of notice or, if such address shall have been furnished to any office of the First Mortgagee in Maricopa County, Arizona, or if no such office is located in Maricopa County, Arizona, to any office of such First Mortgagee. Any notice so

deposited in the mail shall be deemed delivered Seventy-Two (72) hours after such deposit.

(c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, or to a First Mortgagee or First Mortgagees, to the address or addresses for the giving of notice pursuant to this Section, shall be deemed conclusive proof of such mailing.

(d) Notice to the Association shall be delivered by registered or certified United States mail, postage prepaid, addressed as follows:

President
THE SCOTTSDALE SPRINGS CONDOMINIUM ASSOCIATION
7777 East Main Street, Unit 109
Scottsdale, Arizona 85251

or to such other address as is subsequently provided by the Association to the Owners and First Mortgagees in the manner hereinabove provided. Any notice so deposited in the mail shall be deemed delivered upon the date of receipt.

15.12 Effect of Declaration. This Declaration is made for purposes set forth in the recitals in this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations, and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the By-Laws, or Association Rules are determined to be unenforceable in whole or in part or under certain circumstances.

15.13 Personal Covenant. To the extent the acceptance of a conveyance of a Condominium Unit creates a personal covenant between the Owner of such Condominium Unit and Declarant, other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a Person ceases to be an Owner except to the extent this Declaration provides for personal liability with respect to the Assessment incurred during the period a Person is an Owner.

15.14 Nonliability of Officials. To the fullest extent permitted by law, neither the Board nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval, or disapproval, course of action, act, omission, error, or negligence if such Board member or officer acted in good faith within the scope of his, her, or their duties.

15.15 Unsegregated Real Property Taxes. Until such time as real property taxes have been segregated by the County Assessor of Maricopa County for the Condominium Units, the taxes shall be paid by the Association on behalf of the Owners. In connection with such payment, the proportionate share of such tax or installment thereof for a particular Condominium Unit shall be determined by multiplying the tax or installment in question by the respective Allocated Interest of such Condominium Unit in the Common Elements. The Association may levy a special Assessment against any Owner who fails to pay his, her, or its shares of any real property taxes pursuant to this Section. In the event any special Assessment is not paid within Thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof.

15.16 Use of Funds Collected by the Association. All funds collected by the Association, including Assessments and contributions to the Association paid by Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for nonprofit purposes of the Association in managing, maintaining, caring for, and preserving the Common Elements and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Association managing, maintaining, caring for, and preserving the Common Elements and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

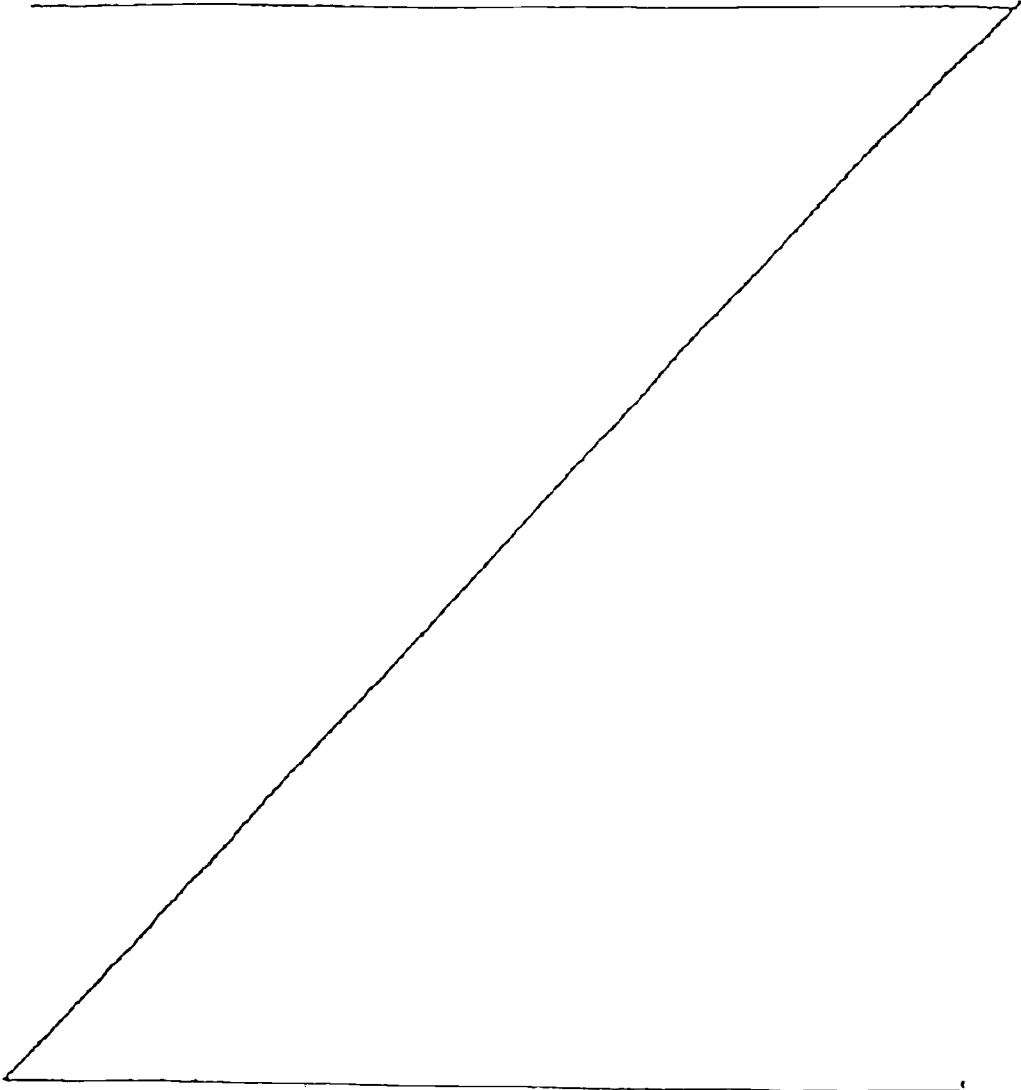
15.17 Amendments. Subject to the other provisions of this Declaration, including, without limitation, the rights of First Mortgagees, and the Development Rights reserved by the Declarant in §§14.01 and 14.02 hereof, this Declaration may be revoked or amended as follows:

(a) Prior to the conveyance of the first Condominium Unit to an Owner other than a Declarant, this Declaration and any amendments thereto may be amended or revoked by the execution by Declarant of an instrument amending or revoking the same.

(b) Subsequent to the conveyance of the first Condominium Unit in the Property to an Owner other than Declarant, this Declaration may be amended by the vote of not less than Sixty-Seven Percent (67%) of the Unit Owners of the Association; provided, however, that so long as the Class B Membership of the Association has not been converted to Class A Membership as provided in §4.03 hereof, any such amendment shall require the prior written consent of the Declarant, or its successors or assigns.

(c) An amendment or revocation which only requires the execution of an instrument by Declarant, as hereinabove provided, shall be effective when executed by Declarant and when recorded in the Office of the County Recorder of Maricopa County, Arizona. An amendment which requires the affirmative written assent or vote of the Owners, as hereinabove provided, shall be effective when executed by the President and Secretary of the Association (who shall certify that the amendment has been so approved) and then the amendment has been recorded in the Office of the County Recorder of Maricopa County, Arizona.

(d) Notwithstanding the foregoing, any provisions of the Act, this Declaration, the Articles, By-Laws, or Association Rules which expressly requires the approval of a specified percentage of the voting power of the



Association or First Mortgagees for action to be taken under such provisions can be amended only with the affirmative written assent vote of not less than the same percentage or percentages of the voting power of the Association and/or First Mortgagees.

(e) As long as there is a Class B Membership, (and in the event the VA, HUD, FNMA, or FHLMC guarantees, approves, or insures any first mortgage of any Condominium Unit at the time the following actions are proposed), the following actions will require the prior approval of HUD, VA, FNMA, or FHLMC: dedication of the Common Elements or any part thereof, and amendment of this Declaration of Establishment of Condominium and Covenants, Conditions, and Restrictions.

In Witness Whereof, the Declarant has executed this Declaration in its behalf all as of the 22 day of JUNE, 1995.

PAR HARBOR LIMITED PARTNERSHIP, an Arizona
Limited Partnership ("Declarant")

By: Ralph Hogan
Ralph Hogan
Its General Partner

By: Kenneth Bobrow
Kenneth Bobrow
Its General Partner

STATE OF ARIZONA

COUNTY OF MARICOPA

)
)ss
)

BEFORE ME, the undersigned Notary Public, on this 22nd day of June, 1995, personally appeared Ralph Hogan and Kenneth Bobrow, who acknowledged that they are the General Partners of PAR HARBOR LIMITED PARTNERSHIP, an Arizona Limited Partnership, and that they, as such, being authorized so to do, executed the foregoing instrument for the purposes contained therein on behalf of said Limited Partnership.

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

Rosalie Lechuga
Notary Public

My commission expires:

My Commission Expires Jan 25, 1998

EXHIBIT "A"

PAGE 1 of 2

That portion of the Northeast quarter of Section 26, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the Northeast corner of said Section 26;

thence North 89 degrees 38 minutes 24 seconds West (an assumed bearing) along the North line of the Northeast quarter of said Section 26, a distance of 756.38 feet;

thence South 00 degrees 21 minutes 36 seconds West, 65.00 feet; thence South 24 degrees 12 minutes 18 seconds West, 769.69 feet to a point, said point being the

TRUE POINT OF BEGINNING; thence continuing South 24 degrees 12 minutes 18 seconds West, 603.30 feet to the Northeast corner of the Southwest quarter of the Northeast quarter of said Section 26;

thence North 89 degrees 46 minutes 11 seconds West along the North line of the Southwest quarter of the Northeast quarter of said Section 26, a distance of 509.81 feet;

thence North 00 degrees 11 minutes 29 seconds East, 620.96 feet;

thence South 89 degrees 42 minutes 26 seconds East, 509.97 feet;

thence North 00 degrees 12 minutes 21 seconds East, 40.00 feet to the Southeast corner of the Northeast quarter of the Northwest quarter of the Northeast quarter of said Section 26;

thence South 65 degrees 47 minutes 43 seconds East, 268.60 feet to the TRUE POINT OF BEGINNING.

EXCEPT That portion of Main Street as dedicated to the City of Scottsdale per Book 243 of Maps, Page 16.

Continued...

EXHIBIT "A"

PAGE 2 of 2

and

EXCEPT, the oil, gas, petroleum, naphtha and other hydrocarbon substances and minerals lying below a depth of 500 feet, with the right of development, production and removal by slant drilling and other methods not requiring the use of the surface of said land.

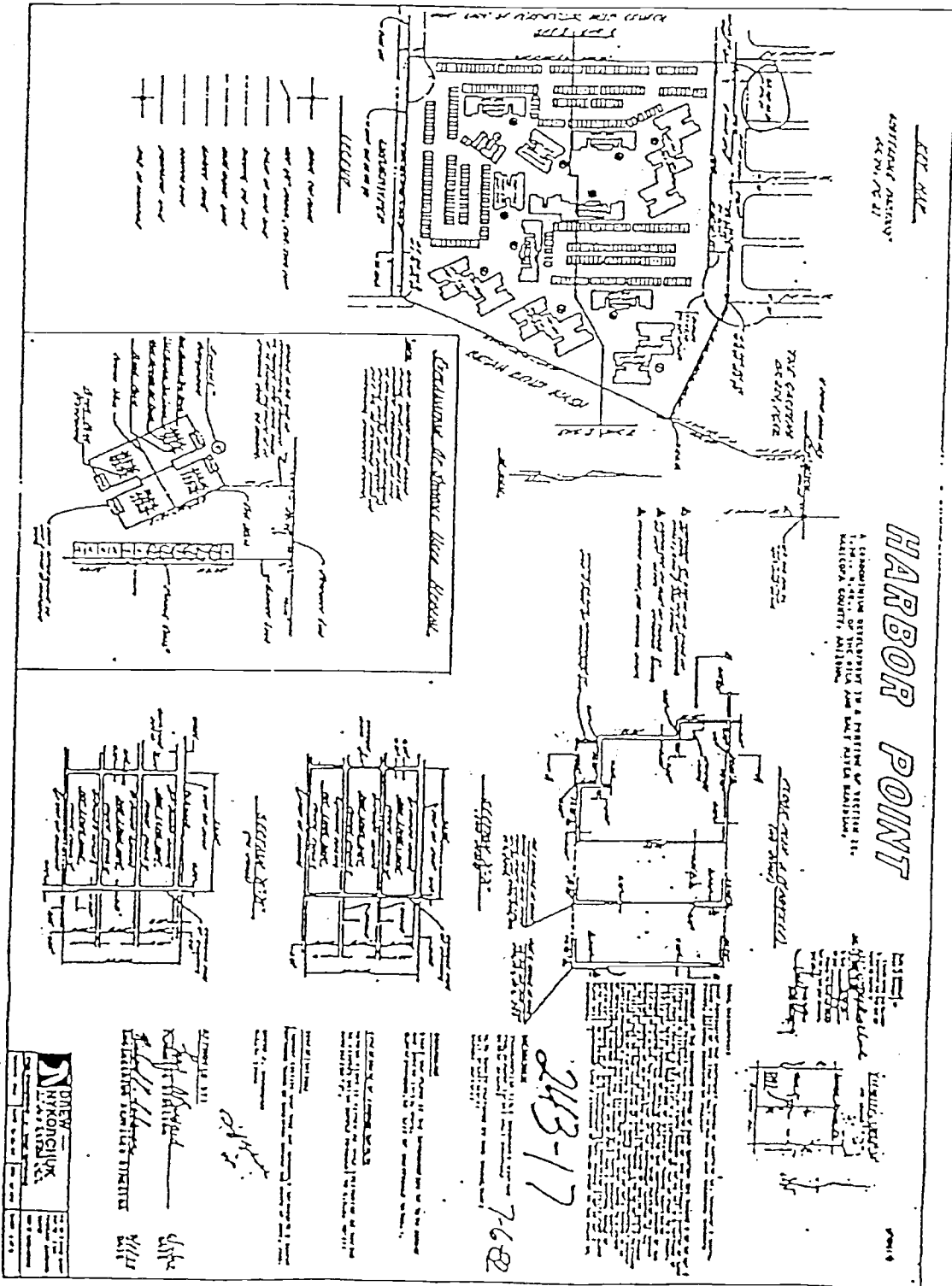


Exhibit "C"
To
Declaration of Establishment of
Condominium and Declaration of
Covenants, Conditions, & Restrictions
For
SCOTTSDALE SPRINGS CONDOMINIUM

Pursuant to ¶1.09 of the Declaration of Establishment of Condominium and Declaration of Covenants, Conditions, and Restrictions for Scottsdale Springs Condominium, to which this Exhibit "C" is appended and made a part, the following Buildings contain the following Condominium Units as shown and designated upon The Plat as defined within ¶1.23 of said Declaration:

<u>BUILDINGS</u>	<u>CONDOMINIUM UNITS</u>
1	101 through 108 201 through 208 301 through 308
2	109 through 112 209 through 212 309 through 312
3	113 through 120 213 through 220 313 through 320
4	121 through 128 221 through 228 321 through 328
5	129 through 132 229 through 232 329 through 332
6	133 through 136 233 through 236 333 through 336
7	137 and 138 237 and 238 337 and 338
8	139 through 142 239 through 242 339 through 342
9	143 through 146 243 through 246 343 through 346
10	148 through 152 247 through 252 347 through 352

BUILDINGSCONDOMINIUM UNITS

11

153 through 156
253 through 256
353 through 356

12

157 through 168
257 through 268
357 through 368

The letter designations "A" and "AR" which appear following the Condominium Units as shown and designated upon the above Plat are intended only to specify the respective Floor Plans of the above Condominium Units (and, as such, said letter designations shall not be considered or included as part of the designation of any Condominium Unit as set forth above in this Exhibit "C" for legal description purposes).

When recorded, return to:

Ekmark & Ekmark, LLC
6720 N. Scottsdale Road, Suite 261
Scottsdale, Arizona 85253

Board Resolution
Scottsdale Springs Condominium

Payment of Association's Insurance Deductible and Non-covered Losses

WHEREAS, Scottsdale Springs ("Association") is governed by the Amendment and Restatement of Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions Establishing and Governing Harbor Point Condominiums (To Be Known As Scottsdale Springs Condominium), recorded at Document number 95-440299, records of Maricopa County, Arizona ("Declaration");

WHEREAS, all owners of Units within Scottsdale Springs Condominium are members of the Association and bound by the Declaration;

WHEREAS, Section 3.07 of the Declaration states that "Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Condominium Unit" and portions of the air conditioning, electrical, plumbing and heating systems and lines which exclusively serve his Unit;

WHEREAS, pursuant to the Declaration, Section 7.03, the Association carries insurance for the entire complex, including all Units contained therein;

WHEREAS, pursuant to the Declaration, Section 7.06 members may obtain any additional or other insurance;

WHEREAS, pursuant to its authority, the Board of Directors wishes to establish rules and regulations governing the payment of the Association's insurance deductible for covered losses and repair responsibilities of the members of the Association for non-covered losses;

NOW, THEREFORE, based on power granted to the Board of Directors and the responsibilities of the members, the Board of Directors hereby adopts the following resolution governing payment of the Association's insurance deductible and repair responsibility for non-covered losses and makes the provisions below part of the Association's rules and regulations:

1. When damage occurs only to one Unit, the Unit owner shall be responsible for paying the full amount of the Association's insurance deductible.

2. When damage occurs to more than one Unit, each Unit owner shall be responsible for part of the Association's insurance deductible in proportion to the cost of reconstruction and repair to their respective Units, as determined by the Board of Directors.
3. If damage occurs to both Common Elements and Units, the Association shall be responsible for part of the Association's insurance deductible in proportion to the cost of reconstruction and repair to the Common Elements, as determined by the Board of Directors, the cost of which may be assessed against all owners in proportion to their interest in the Common Elements in the discretion of the Board of Directors.
4. Each owner needs to be aware of the extent of the Association's insurance policy (bare walls policy) and the amount of the Association's insurance deductible so that the owner may obtain proper insurance coverage to meet any gaps in insurance coverage if the owner so chooses.
5. If damage is caused to any Unit(s) that is not covered by the Association's insurance policy, or the cost of repair of such damage is less than the Association's insurance deductible, the owner(s) of the damaged unit(s) will be solely responsible for the cost of such repairs.
6. If the Association's insurance policy premiums are increased as a result of the use, misuse, occupancy, or abandonment of a Condominium Unit or its appurtenances, or of the Common Elements by an Owner, the cost of such increase in premiums may be assessed against that unit or owner in the discretion of the Board.

DATED this 24th day of March, 2004.

By: [Signature] John M. Melle
President, Scottsdale Springs Condominium Association

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this 24 day of March, 2004, before me the undersigned Notary Public, personally appeared John Melle, who acknowledged to me that he/she is the President of the Association and that he/she executed the foregoing agreement on behalf of the Association for the purposes expressed therein.

[Signature]
Notary Public

My Commission expires: 10/31/05

Scottsdale Springs Condominium (The) - 2410 General Council Insurance Claims Insurance Resolution, Inc.



JANET M. PHILLIPS
Notary Public - Arizona
Maricopa County
Expires 10/31/05