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**CONDOMINIUM DECLARATION
FOR
UNION HILLS CONDOMINIUM**

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FOR
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**CONDOMINIUM DECLARATION
FOR
UNION HILLS CONDOMINIUM**

This Condominium Declaration for Union Hills Condominium (this "Declaration") is made this 1st day of February, 2006, by Union Hills Apartments, L.L.C., an Arizona limited liability company (the "Declarant").

ARTICLE 1

DEFINITIONS

As used in this Declaration, the terms defined in this Article shall have meanings specified in this Article. Capitalized terms used in this Declaration but not otherwise defined in this Declaration shall have the meanings specified for such terms in the Arizona Condominium Act, A.R.S. §33-1201, *et seq.*, as amended from time to time.

1.1 "Allocated Interests" means the undivided interests in the Common Elements, the Common Expenses Liability and the votes in the Association allocated to each Unit by this Declaration.

1.2 "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

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1.3 "Assessments" means the Regular Assessments, Special Assessments, Individual Expense Assessments and Enforcement Assessments levied pursuant to Article 7.

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

1.5 "Association" means Union Hills Condominium Unit Owners Association, an Arizona nonprofit corporation, its successors and assigns.

1.6 "Balcony" means a balcony adjoining a Unit as shown on the Plat.

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

1.8 "Building" means each of the buildings located on the Parcel and containing Units as shown on the Plat.

1.9 "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.10 "City" means the City of Phoenix, Arizona, a municipal corporation.

1.11 "Collection Costs" means all costs, fees, charges and expenditures (including, without limitation, attorneys' fees, court costs, filing fees and recording fees) incurred by the Association in collecting and/or enforcing payment of Assessments, monetary penalties, late fees, interest or other amounts payable to the Association pursuant to this Declaration.

1.12 "Common Elements" means all portions of the Condominium other than the Units.

1.13 "Common Expenses" means the actual or estimated costs or expenses incurred or to be incurred by the Association or financial liabilities of the Association including, without limitation, the following:

(a) the cost of maintenance, management, operation, repair and replacement of the Common Elements and all other areas within the Condominium which are maintained by the Association;

(b) the cost of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, architects and employees;

(c) the cost of any utilities, trash pickup and disposal, landscaping, and other services benefiting the Unit Owners and their Units to the extent such services are paid for by the Association;

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(d) the cost of fire, casualty, liability, worker's compensation and other insurance maintained by the Association as provided in this Declaration;

(e) reasonable reserves as deemed appropriate by the Board or required by the Condominium Documents;

(f) the cost of bonding of the directors, officers and employees of the Association, any professional managing agent or any other person handling the funds of the Association;

(g) all real property taxes levied against the Parcel as a whole or separately against the Common Elements;

(h) amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Elements or portions thereof;

(i) any cost incurred by the Association in furtherance of the purposes of the Association, the discharge of the obligations imposed on the Association by the Condominium Documents or the Condominium Act or the exercise by the Association of any of the powers or rights granted to the Association by the Condominium Documents or the Condominium Act.

1.14 "Common Expense Liability" means the percentage of undivided interests in the Common Expenses allocated to each Unit by Section 2.6.

1.15 "Condominium" means the Parcel, together with the Building and all other Improvements located thereon.

1.16 "Condominium Act" means the Arizona Condominium Act, A.R.S. §33-1201, et seq., as amended from time to time, or any successor statute which governs the creation and management of condominiums.

1.17 "Condominium Documents" means this Declaration and the Articles, Bylaws, and Rules.

1.18 "Declarant" means Union Hills Apartments, L.L.C., an Arizona limited liability company, and its successors and any Person to whom it may transfer any Special Declarant Right by a Recorded instrument.

1.19 "Declaration" means this Condominium Declaration for Union Hills Condominium, as amended from time to time.

1.20 "Development Rights" means any right or combination of rights to do any of the following:

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- (a) Add real estate to the Condominium;
- (b) Create easements, Units, Common Elements or Limited Common Elements within the Condominium;
- (c) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units;
- (d) Make the Condominium part of a larger condominium or planned community;
- (e) Amend the Declaration during the Period of Declarant Control to comply with the Condominium Act or any other applicable law or to correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner;
- (f) Amend the Declaration during the Period of Declarant Control 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.

1.21 "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters in accordance with Section 12.1.

1.22 "Eligible Mortgage Holder" means a First Mortgagee who has requested notice of certain matters from the Association in accordance with Section 12.1

1.23 "Enforcement Assessment" means an assessment levied pursuant to Section 7.5.

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

1.25 "First Mortgagee" means the holder of any First Mortgage.

1.26 "Garage" means a portion of the Common Elements designated on the Plat as a "Garage".

1.27 "Identifying Number" means the number shown on the Plat that identifies a particular Unit.

1.28 "Improvement" means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Condominium, including, but not limited to, buildings, private drives, ~~pat~~^{pat}~~ent~~^{ent}~~ial^{official document} ~~es~~, walls, sculptures, signs, hedges, plants, trees and shrubs of every type and kind.~~

1.29 "Individual Expense Assessment" means an assessment levied by the Association pursuant to Section 7.4.

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

1.31 "Lessee" means any Person who is the tenant or lessee under a written lease of a Unit.

1.32 "Limited Common Elements" means a portion of the Common Elements specifically designated in this Declaration as a Limited Common Element and allocated by this Declaration or by operation of the Condominium Act for the exclusive use of one or more but fewer than all of the Units.

1.33 "Member" means a Person who is or becomes a member of the Association.

1.34 "Mortgagee" means the holder of any Mortgage.

1.35 "Occupant" means a person, other than an Owner, in possession of a Unit at the request of or with the consent of the Owner.

1.36 "Owner" or "Unit Owner" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Unit. Unit Owner shall not include Persons having an interest in a Unit merely as security for the performance of an obligation, or a lessee or tenant of a Unit. Unit Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract subject to A.R.S. § 33-741, *et seq.* Unit Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of Units the fee simple title to which is vested in a trustee pursuant to A.R.S. § 33-801, *et seq.*, the Trustor shall be deemed to be the Unit Owner.

1.37 "Parcel" means the land described on Exhibit A attached hereto, together with all Improvements situated thereon and all easements and rights appurtenant thereto.

1.38 "Parking Space" means a portion of the Common Elements intended for the parking of a single motor vehicle and identified on the Plat as a parking space.

1.39 "Patio" means a patio adjoining a Unit as shown on the Plat.

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1.40 "Period of Declarant Control" means the time period commencing on the date this Declaration is Recorded and ending on the earlier of: (a) ninety (90) days after the conveyance of seventy-five percent (75%) of the Units which may be created to Owners other than the Declarant; or (b) four (4) years after all Declarants have ceased to offer Units for sale in the ordinary course of business.

1.41 "Person" means a natural person, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.42 "Plat" means the condominium plat for Union Hills Condominium recorded in Book 812, Page 28, in the records of the County Recorder of Maricopa County, Arizona, and any amendments, supplements or corrections thereto.

1.43 "Purchaser" means any Person (other than the Declarant) who becomes a Unit Owner, except for a Person who purchases a Unit and then leases it to the Declarant for use in connection with the sale of other Units, or a Person who, in addition to purchasing a Unit, is assigned any Special Declarant Right.

1.44 "Recording" means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona and **"Recorded"** means having been so placed of public record.

1.45 "Regular Assessment" means the assessment levied against the Units pursuant to Section 7.2.

1.46 "Rules" means the rules and regulations adopted by the Board of Directors, as amended from time to time.

1.47 "Special Declarant Rights" means any right or combination of rights to do any of the following:

- (a) Construct Improvements provided for in this Declaration or shown on the Plat;
- (b) Exercise any Development Right;
- (c) Maintain sales offices, management offices, models, and signs advertising the Condominium;
- (d) Use easements through the Common Elements for the purpose of making Improvements within the Condominium;
- (e) Appoint or remove any officer of the Association or any member of the Board of Directors during the Period of Declarant Control;
- (f) Exercise the rights described in Section 3.4.

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1.48 "Storage Room" means a portion of the Common Elements identified as "Storage" on the Plat.

1.49 "Unit" means a portion of a Building subject to this Declaration and designated as a Unit on the Plat. The boundaries of each Unit are described in Section 2.5 and are shown on the Plat.

ARTICLE 2

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

2.1 Submission of Property. The Declarant is the owner of fee title to the Parcel. Declarant hereby submits the Parcel to the provisions of the Condominium Act for the purpose of creating a condominium in accordance with the provisions of the Condominium Act and hereby declares that the Parcel shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration. The Declarant designates each Unit for separate ownership or occupancy. Declarant further declares that all of the easements, restrictions, conditions and covenants in this Declaration shall run with the Parcel and shall be binding upon and inure to the benefit of the Declarant and all Unit Owners, Lessees and Occupants and all other Persons having or acquiring any right, title or interest in the Condominium or any part thereof, their heirs, successors, successors in title and assigns. Each Person who acquires any right, title or interest in the Condominium, or any part thereof, agrees to abide by all of the provisions of the Condominium Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Condominium Documents, or as to the compliance of any of the provisions of the Condominium Documents with public laws, ordinances and regulations applicable thereto.

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2.2 Name of Condominium. The name of the Condominium created by this Declaration is Union Hills Condominium.

2.3 Name of Association. The name of the Association is Union Hills Condominium Unit Owners Association.

2.4 Identifying Numbers of Units. The Identifying Numbers of the Units are set forth on the Plat.

2.5 Unit Boundaries.

2.5.1 The boundaries of each Unit shall be as follows:

- (a) The vertical boundaries are vertical planes formed by the interior unfinished surfaces of the perimeter walls, doors and windows of the Unit;
- (b) The lower horizontal boundary shall be a horizontal plane formed by the finished floor of the Unit;
- (c) The upper horizontal boundary shall be a horizontal plane formed by the finished ceiling of the Unit.

2.5.2 Each Unit shall include openings and outlets of all utility installations in the Unit. 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 or floor are part of the Unit, and all other portions of the walls and floor are part of the Common Elements. All spaces, interior partitions and other fixtures and improvements (including, but not limited to, chutes, flues, wires, conduits, heating and air conditioning unit, hot water heaters and gas, cable television, water and electric pipes, lines or meters) within the boundaries of a Unit and which serve only the Unit are part of the Unit, and any such fixtures or improvements located within the boundaries of a Unit but which serve more than one Unit are part of the Common Elements.

2.5.3 The location and dimensions of the boundaries of the Units as shown on the Plat are based on architectural drawings and are approximate. The actual location and dimensions of the boundaries of the Units may vary from the location and dimensions of the boundaries as shown on the Plat. The actual physical location and dimensions of the boundaries of a Unit, as initially constructed, or as reconstructed following the damage or destruction of such walls, shall be considered the location and dimensions of the boundaries of the Units for purposes of this Declaration regardless of any variances from the location and dimensions of the boundaries as shown on the Plat, except for the allocation to each Unit of a percentage undivided interest in the Common Elements and in the Common Expenses pursuant to Section 2.6 based on the square footage of the Unit as shown on the Plat.

2.5.4 Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant and to reallocate such Unit's Common Element Interest, votes in the Association and Common Expense Liabilities subject to and in accordance with A.R.S. § 33-1222.

2.5.5 In the event of any inconsistency or conflict between the provisions of this Subsection 2.5.1 and the Plat in regard to the description of the boundaries of the Unit, this Section shall control.

2.6 Allocation of Common Element Interest and Common Expense Liabilities. Each Unit is allocated a percentage of undivided interest in the Common Elements and in the Common Expenses calculated by dividing the square footage of the Unit by the total square footage of the Units according to the square footage of each Unit as shown on the Plat. The percentage of undivided interests in the Common Elements and in the Common Expenses are set forth on Exhibit B attached hereto. The percentage of interest of each Unit in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of interest. The ownership of each Unit shall not be conveyed separate from the percentage of interest in the Common Elements allocated to the Unit. The undivided percentage of interest in the Common Elements allocated to any Unit shall always be deemed conveyed or encumbered with any conveyance or encumbrance of that Unit, even though the legal description in the instrument conveying or encumbering the Unit may refer only to the fee title to the Unit. Except as permitted by the Condominium Act, the Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an

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

2.7 Allocation of Votes in the Association. The total votes in the Association shall be equal to the number of Units subject to this Declaration. The votes in the Association shall be allocated equally among all Units with each Unit having one (1) vote.

2.8 Allocation of Limited Common Elements.

2.8.1 The following portions of the Common Elements are Limited Common Elements and are allocated to the exclusive use of one Unit as follows:

(a) Any chute, flue, pipe, duct, wire, conduit or other fixture (including, but not limited to, heating and air conditioning units and related equipment and natural gas, cable television, water and electric pipes, lines or meters), located outside of the boundaries of a Unit, which serve only one Unit are a Limited Common Element allocated solely to the Unit served;

(b) If a chute, flue, pipe, duct, wire, conduit or other fixture (including, but not limited to, hot water heaters, heating and air conditioning units and related equipment and natural gas, cable television, water and electric pipes, lines or meters) lies partially within and partially outside Unofficial Document the boundaries of a Unit, the portion outside the boundaries of the Unit which serve only the Unit is a Limited Common Element allocated solely to the Unit, the use of which is limited to the Unit served;

(c) All doors and windows in the perimeter walls of a Unit are Limited Common Elements allocated to the Unit. The glazing, sashes, frames, sills, thresholds, hardware, flashing and other components of the doors and windows are part of the doors and windows allocated as Limited Common Elements.

(d) Each Unit on the second floor or third floor of a Building is allocated the Balcony adjoining the Unit and designed to serve that Unit. The boundaries of each Balcony shall be as follows: (i) the lower boundary shall be the unfinished floor of the Balcony; (ii) the upper boundary shall be the unfinished ceiling of the Balcony; and (iii) the vertical boundaries shall be vertical planes corresponding to the exterior wall of the Building and the inside surface of the railing of the Balcony extended to the upper and lower boundaries.

(e) Each Unit on the first floor of a Building is allocated the Patio adjoining the Unit and designed to serve that Unit. The boundaries of each Patio shall be as follows: (i) the lower boundary shall be the unfinished concrete floor of the Patio; (ii) the upper boundary shall be a horizontal plane having an elevation equal to the elevation of the finished ceiling of the Unit to which the Patio is allocated; and (iii) the vertical boundaries shall be the vertical planes corresponding to the exterior wall of the Building in which the Unit is located and interior unfinished surfaces of the wall enclosing the Patio.

(f) Each Unit is allocated the covered Parking Space or Garage listed opposite the Identifying Number of the Unit on Exhibit C attached hereto. The boundaries of each Garage shall be the interior unfinished surfaces of the perimeter walls, floor and ceiling of the Garage as shown on the Plat.

(g) Each Storage Room is allocated to the Unit adjoining the Storage Room as shown on the Plat.

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

2.8.3 A Limited Common Element may be reallocated by an amendment to this Declaration. The amendment shall be executed by the Owners between or among whose Units the allocation is made, shall state the manner in which the Limited Common Elements are to be reallocated and, before recording the amendment, shall be submitted to the Board of Directors. Unless the Board of Directors determines within thirty (30) days that the proposed amendment is unreasonable, which determination shall be in writing and specifically state the reasons for disapproval, the Association shall execute its approval and record the amendment.

2.8.4 So long as the Declarant owns any Unit, the Declarant shall have the right to allocate as a Limited Common Element any part of the Common Elements (including, but not limited to, Garage and Parking Spaces) which has not previously been allocated as a Limited Common Element. Any such allocation shall be made by an amendment to this Declaration executed by the Declarant. The Association and all Owners acknowledge and agree the Declarant shall have the right to charge a fee for making an allocation of a Parking Space or Garage as a Limited Common Element and that all such fees shall be the sole property of the Declarant and neither the Association nor any Owner shall have any right or claim to such fees. After the Declarant no longer owns any Unit, the Board of Directors shall have the right, with the approval of Members holding at least sixty-seven percent (67%) of the total number of votes entitled to be cast by Members, to allocate as a Limited Common Element any portion of the Common Elements not previously allocated as a Limited Common Element. Any such

allocation by the Board of Directors shall be made by an amendment to this Declaration and an amendment to the Plat if required by the Condominium Act.

2.9 Conversion Disclosure.

The Parcel is being converted by the recording of the Plat and this Declaration from multifamily rental to condominiums. The buildings and other improvements situated on the Parcel were designed and constructed in accordance with design requirements and building codes applicable to rental apartments. The design criteria and building codes applicable to rental apartments may vary significantly from the design criteria and building codes applicable to condominium projects. The Declarant makes no representation or warranty that the buildings or other improvements situated on the Parcel comply with the design criteria or building codes applicable to condominium projects either when the improvements were constructed or currently. The original construction of the improvements situated on the Parcel was completed in 2006.

The name and address of the original owner, builder, developer and general contractor as shown on the building permit issued by the City is as follows:

Owner:

Union Hills Apartments, LLC
2777 E. Camelback Road
Suite 150
Phoenix, AZ 85016

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General Contractor and Builder:

Trillium Development, LLC
2777 E. Camelback Road
Suite 150
Phoenix, AZ 85016

The name and address of each subsequent owner of the Parcel as determined by a search of the records of the County Recorder of Maricopa County is as follows:

<u>Name</u>	<u>Address</u>
NONE	

