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**DECLARATION OF CONDOMINIUM
AND OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WILLETTA 9 CONDOMINIUMS**

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**DECLARATION OF CONDOMINIUM AND OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WILLETTA 9 CONDOMINIUMS**

THIS DECLARATION OF CONDOMINIUM AND OF COVENANTS CONDITIONS AND RESTRICTIONS FOR WILLETTA 9 CONDOMINIUMS is made this 11th day of March 2004 by Willetta 9 LLC, an Arizona limited liability company (the "Declarant").

**ARTICLE 1
DEFINITIONS**

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

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

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

(B) "Assessments" means the Common Expense Assessment and Special Assessments levied and assessed against each Unit pursuant to Article 7 of this Declaration.

(C) "Assessment Lien" means the lien granted to the Association by §33-1256 of the Condominium Act to secure the payment of Assessments, monetary penalties and other charges owed to the Association by a Unit Owner.

(D) "Association" means the Arizona nonprofit corporation organized by the Declarant to administer and enforce the Condominium Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns. Declarant intends to organize the Association under the name, "Willetta 9 Condominiums Homeowners Association," but if such name is not available, the Declarant may organize the Association under such other name as the Declarant deems appropriate.

(E) "Board of Directors" means the Board of Directors of the Association.

(F) "Building" means any structure designated as a building on the Plat.

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

(H) "Common Elements" means all portions of the Condominium other than the Units, including, without limitation, any recreational amenities, walkway areas, and private drives.

(I) "Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with required allocations to reserves.

(J) "Common Expense Assessment" means the assessment levied against the Units pursuant to Section 7.1 (A) of this Declaration.

(K) "Common Expense Liability" means the liability for common expenses allocated to each Unit by this Declaration.

(L) "Condominium" means the real property located in Maricopa County, Arizona, which is described in Exhibit A attached to this Declaration and on the Plat, together with all Buildings and other Improvements located thereon and all easements, rights, and appurtenances belonging thereto. The name of the Condominium created by this Declaration is "Willetta 9 Condominiums."

(M) "Condominium Documents" means this Declaration, including the Plat, Articles, Bylaws, and Rules.

(N) "Declarant" means Willetta 9 LLC, an Arizona limited liability company, and any Person to whom it may transfer any Special Declarant Right.

(O) "Declaration" means this Declaration of Condominium and of Covenants, Conditions and Restrictions for Willetta 9 Condominiums, as it may be amended from time to time, together with the exhibits, and where appropriate by context, the Plat.

(P) "Development Rights" means any right or combination of rights reserved by or granted to the Declarant in this Declaration to do any of the following:

(i) Create easements, Units, Common Elements or Limited Common Elements within the Condominium;

(ii) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units;

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

(iv) Amend the Condominium Documents during the Period of Declarant Control as provided in Section 11.4(D) below.

(Q) "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 9.0 of this Declaration.

(R) "Eligible Mortgage Holder" means a First Mortgagee who has requested notice of certain matters from the Association in accordance with Section 9.0 of this Declaration.

(S) "First Mortgage" means any mortgage or deed of trust on a Unit with first priority over any other mortgage or deed of trust.

(T) "First Mortgagee" means the holder of any First Mortgage.

(U) "Identifying Number" means the number assigned to a Unit on the Plat.

(V) "Improvement" means all physical structures including, but not limited to, residential buildings, parking areas, driveways, fences and walls, privacy gates, if any, trash receptacles, cluster mailboxes, and all landscaping, including, but not limited to, the complete irrigation system, hedges, plantings, trees and shrubs of every type and kind.

(W) "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.

(X) "Member" means any Person who is or becomes a member of the Association.

(Y) "Period of Declarant Control" means the time period commencing on the date this Declaration is recorded in the Official Records of the Maricopa County, Arizona Recorder, and ending on the earlier of

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

(ii) Four (4) years after all Declarant has ceased to offer Units for sale in the ordinary course of business.

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

(AA) "Plat" means the condominium plat for Willetta 9 Condominiums, recorded in Book 675 of Maps, page 12, Official Records of the Maricopa County, Arizona Recorder, and any amendments, supplements, or corrections thereto.

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

(CC) "Rules" means the rules and regulations adopted by the Association, as they may be amended from time to time.

(DD) "Single Household" means a group of one or more persons, not to exceed four persons, who maintain a common household in a Unit.

(EE) "Special Declarant Rights" means any right or combination of rights reserved by or granted to the Declarant in this Declaration or by the Condominium Act to do any of the following:

(i) Construct Improvements provided for in this Declaration or shown on the Plat;

(ii) Exercise any Development Right;

(iii) Maintain sales offices, management offices, model Units and signs advertising the Condominium;

(iv) Use easements through the Common Elements for the purpose of making Improvements within the Condominium;

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

(FF) "Uncovered Parking Spaces" means any Common Element uncovered parking space within the Condominium.

(GG) "Unit" means a portion of the Condominium as described in this Declaration and as shown on the Plat that is designated for separate ownership and occupancy.

(HH) "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 (i) Persons having an interest in a Unit merely as security for the performance of an obligation, or (ii) a lessee or tenant of a Unit. Unit Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title to a Unit under which the seller is obligated to convey to the purchaser the remainder of seller's title in the Unit, whether legal or equitable, upon payment in full of all monies due under the contract. The term "Unit Owner" shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contract which is intended to control the rights and obligations of the parties to the executory contract pending the closing of a sale or purchase transaction. In the case of Units the fee simple title to which is vested in a trustee pursuant to A.R.S., §§33-801 et seq., the Trustor shall be deemed to be the Unit Owner.

ARTICLE 2

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

2.0 Submission of Property. The real property described on Exhibit A attached to this Declaration and on the Plat, together with all Improvements, easements, rights and appurtenances thereto, is hereby submitted to a Condominium in accordance with the provisions of the Condominium Act. The Identifying Numbers of the Units submitted to the Condominium are those Units consecutively numbered 1 through 9, inclusive, as shown on the Plat.

2.1 Unit Boundaries.

(A) The physical boundaries of each Unit are the interior unfinished surfaces of the perimeter walls, floors, ceilings, doors and windows of the Unit with: (i) the underside of the finished but undecorated ceiling as the top horizontal boundary; (ii) the top of the finished but undecorated flooring shall be the bottom horizontal boundary; and (iii) the interior of the finished but undecorated walls shall be the vertical boundaries. All paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces are a part of the Unit, and all other portions of the walls, floors or ceilings are a part of the Common Elements. The structural elements of exterior windows and doors shall be Limited Common Elements allocated to that Unit as provided in Section 2.1 (D) below.

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

than one Unit or any portion of the Common Elements is a part of the Common Elements.

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

(D) Any shutters, awnings, window boxes, doorsteps, stoops, porches, stairways, entryways, patios, and private yards, and all exterior doors and glass windows or other fixtures designed to serve a single Unit, but located outside of the Unit's physical boundaries, are Limited Common Elements allocated exclusively to that Unit. Stairways and entryways designated for use by a Unit or Units in a Building, but less than all of the Units in the Condominium, and located outside of the physical boundaries of a Unit shall be Limited Common Elements allocated to the Unit or Units in the Building served by such stairways and entryways.

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

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

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

2.2 Allocation of Common Element Interest. The undivided interests in the Common Elements of the Association shall be allocated equally among the Units (the "Allocated Interests"). Accordingly, each Unit's percentage interest in the Common Elements shall be one-ninth (1/9).

2.3 Allocation of Common Expense Liability. The Common Expense Liability of the Association shall be allocated equally among the Units, with each Unit responsible for one ninth (1/9) of the Common Expense Liability.

2.4 Allocation of Votes in the Association. The votes in the Association shall be allocated equally among all the Units with each Unit having one (1) vote. An Owner's voting rights are subject to suspension as provided in the Bylaws if the Owner violates the Condominium Documents.

2.5 Allocation of Limited Common Elements.

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

(i) Each Unit is allocated the private backyard adjoining the Unit as shown on the Plat and labeled "Private Yard".

(ii) Any electric meter or heating, ventilation, air conditioning unit, and roof hatch which serves only one Unit is allocated to the Unit it serves.

(iii) Each Unit is allocated those portions of the Common Elements designated as Limited Common Elements in Sections 2.1(B) and (D) of this Declaration that serve the Unit.

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

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

**ARTICLE 3
EASEMENTS**

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

3.1 Easements for Ingress and Egress. There is hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes that from time to time may exist upon the Common Elements. There is also created an easement for ingress and egress for pedestrian and vehicular traffic, including, without limitation, emergency access and utility repair vehicles, over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes except that such easements shall not extend to any Limited Common

Elements, except as specifically provided herein. Such easements shall run in favor of and be for the benefit of the Unit Owners and occupants of the Units and their guests, families, tenants and invitees.

3.2 Unit Owners' Easements of Enjoyment.

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

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

(ii) The right of the Association to suspend the right to use recreational Common Element amenities in accordance with the Bylaws;

(iii) The right of the Association to convey the Common Elements or subject the Common Elements to a mortgage, deed of trust, or other security interest, in the manner and subject to the limitations set forth in the Condominium Act, subject to the vote or written assent of those Unit Owners representing at least eighty percent (80%) of the votes in the Association, and with the consent of Declarant during the Period of Declarant Control; and, in all events, subject to a Unit Owner's easement for ingress and egress if access to such Owner's Unit is through the Common Elements to be conveyed or mortgaged; and

(iv) All rights and easements set forth in this Declaration, including, but not limited to, the rights and easements granted to the Declarant by Sections 3.3 and 3.4 of this Declaration.

(B) If a Unit is leased or rented, the lessee and the members of his family residing with the lessee shall have the right to use the Common Elements during the term of the lease.

(C) A Unit Owner's right and easement of enjoyment in and to the Common Elements shall not be conveyed, transferred, alienated or encumbered separate and apart from a Unit. Such right and easement of enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Unit, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement.

(E) Unit Owner shall have restricted access, through the roof hatch, to that portion of the Building roof, which is directly above Unit Owner's Unit, for the limited purpose of maintenance of the HVAC unit which services Unit Owner's Unit. Except as otherwise provided herein, access to the roofs of the Buildings is strictly prohibited. Accordingly, no deck structures or other improvements may be erected on

the roof of any Building, nor may any furniture, equipment or any other personal property, of a permanent or temporary nature, be permitted to be placed on the roof of any Building.

3.3 Declarant's Use for Sales and Leasing Purposes.

(A) Declarant shall have the right and an easement to maintain sales or leasing offices, management offices, construction offices and model Units throughout the Condominium and to maintain one or more advertising, model and directional signs on the Common Elements while the Declarant is selling or preparing to sell Units in the Condominium. Declarant reserves the right to place models, management offices, construction offices and sales and leasing offices in any Units owned by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

(B) Declarant may from time to time relocate model Units, management offices and sales and leasing offices to different locations within the Condominium. Without limiting the foregoing, during Declarant's pre-sale and sales period, Declarant may relocate any business facilities including the sales center, business office and the like on any portion of the Condominium, including on the Common Elements or within any Unit owned by Declarant. Upon the relocation of a model Unit, management, business, sales or leasing office constituting a Common Element, Declarant may remove all personal property and fixtures therefrom.

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

(D) The Declarant reserves the right to remove and retain all goods, personal property and equipment used in the sales, management, construction and maintenance of the Condominium that has not been represented to be property of the Association.

3.4 Declarant's Easements.

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

(B) Declarant shall have the right and an easement on, over and under those portions of the Common Elements not located within the Buildings for the purpose of maintaining and collecting drainage of surface, roof or storm water. The easement created by this subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

(C) The Declarant shall have an easement through the Units, including Units owned by Purchasers, at reasonable times and upon reasonable notice for any access necessary to complete any renovations, warranty work or modifications or improvements to be performed or constructed by the Declarant.

(D) The Declarant shall have the right and an easement on, over, and through the Common Elements as may be reasonably necessary for the purpose of discharging its obligations and exercising Special Declarant Rights whether arising under the Condominium Act or reserved in this Declaration.

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

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

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

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

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

(C) For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit, the bottom surface of floor joists above the Unit and the top surface of the floor joists below the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building.

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

(E) For the performance of the Unit Owner's obligation to maintain, repair, replace and restore those portions of the Limited Common Elements that the Unit Owner is obligated to maintain under Section 5.1(B) of this Declaration.

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

(A) For inspection of the exterior of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible.

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

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

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

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

3.9 Easement for Unintended Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element as a result of

original construction, alteration or restoration authorized by this Declaration, settling or shifting, or any reason other than the intentional encroachment on the Common Elements or any Unit by a Unit Owner, a valid easement for the encroachment, and for the maintenance thereof, exists.

3.10 Limited Right of Entry. The Owner, Owner's family, tenants, guests, and invitees of Units 5, 6, 8 and 9 (the "Benefited Unit") shall have a limited right of entry (the "Limited Right of Entry") upon the Private Yard Limited Common Elements of each Unit (the "Servient Unit") located to the east of the Benefited Unit for the sole purpose of emergency ingress and egress access to the Common Area driveway located at the east end of each Building in the event immediate emergency evacuation of the Unit becomes necessary. The Limited Right of Entry may not be used for any other purpose whatsoever. Access afforded by the Limited Right of Entry will be made through the gate located on the outside parameter fence separating the adjoining Units. The Limited Right of Entry shall not extend to permitting entry into any Unit nor shall it unreasonably interfere with the use of any Units. Any damage to a Unit or Limited Common Element resulting from the exercise of the Limited Right of Entry shall promptly be repaired by and at the expense of the Owner of the Benefited Unit.

ARTICLE 4 USE AND OCCUPANCY RESTRICTIONS

4.0 Single Household Residential Use. All Units and Limited Common Elements, except as otherwise provided in this Declaration, shall be used, improved and devoted to residential use by a Single Household. No gainful occupation, profession, trade or other nonresidential use shall be conducted on or in any Unit or Limited Common Element, but a Unit Owner or other resident may conduct a business activity within a Unit so long as: (i) the existence or operation of the business activity does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of Unit Owners or other residents in the Condominium, as may be determined from time to time in the sole discretion of the Board of Directors; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Condominium; (iii) the trade or business conducted by the Unit Owner or resident shall not require more than one (1) employee working in or from such Unit who is not a lawful resident thereof; and (iv) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or parking violations.

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

power or telephone structures incident to the construction of Buildings or structures approved by the Board.

4.2 Improvements and Alterations. Any Unit Owner may make nonstructural additions, alterations and improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall, to the extent permitted under Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such alterations, additions or improvements. No Person shall make any structural additions, alterations or improvements within a Unit, unless prior to the commencement of each addition, alteration or improvement, the Unit Owner receives the prior written approval of the Board and the Owner retains an architect or engineer licensed in Arizona who certifies that such addition, alteration or improvement will not impair the structural integrity or the sound attenuation of the walls, floors and ceilings of the Building within which such addition, alteration or improvement is to be made. The Unit Owner shall, to the extent, permitted by Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a Unit, whether structural or not, which would be visible from the exterior of the Building in which the Unit is located, shall be made without the prior written consent of the Board, which approval shall only be granted if the Board affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding Improvements.

4.3 Trash Containers and Collection. No garbage or trash shall be placed or kept on the Condominium except in containers located in areas designated on the Plat. No incinerators shall be kept or maintained in any Unit.

4.4 Machinery and Equipment. No Unit Owner may place, operate or maintain machinery or equipment of any kind upon the Condominium other than usual and customary machinery and equipment used in connection with the Owner's permitted uses of his Unit and Limited Common Elements. This Section 4.4 shall not apply to any such machinery or equipment which Declarant or the Association may require for the construction, improvement, operation and maintenance of the Common Elements.

4.5 Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house pets, shall be maintained in or on the Condominium and then only if such house pets are kept or raised solely as domestic pets (and not for commercial purposes) within an Owner's Unit and Private Yard allocated thereto. In no event may an aggregate of more than two (2) dogs or cats occupy any Unit regardless of size or weight. No pet or other animal shall be allowed to make an unreasonable amount of noise, cause an odor, or to become a nuisance. All dogs or other house pets permitted hereunder and capable of being walked on a leash shall be kept on a leash not to exceed six (6) feet in length when outside a Unit, and all pets shall be directly under the Unit Owner's control at all times. No Unit Owner or any other lawful resident or guest or invitee thereof shall permit any such pet being kept in the Unit or the Limited Common Elements allocated to the Unit to relieve itself on any portion of the Common

Elements; it being understood that it shall be the responsibility of such person to immediately remove any droppings from pets. No structure for the care, housing, confinement, or training of any animal or pet shall be maintained on any portion of the Common Elements (including Limited Common Elements) or in any Unit so as to be visible from the exterior of the Building in which the Unit is located. Upon the written request of any Unit Owner, the Board of Directors shall determine whether, for the purposes of this section, a particular animal or bird is a generally recognized house pet, a nuisance, or whether the number of pets in any Unit or the Limited Common Elements allocated thereto is reasonable. The right of Unit Owners and other occupants of Units to maintain a reasonable number of house pets in or on the Condominium pursuant to this section is expressly subject to the right of the Board of Directors to restrict such house pets to only certain portions of the Condominium and to prospectively further restrict the size, number and breeds of dogs or other pets which may be maintained or kept in the Units or the Limited Common Elements allocated thereto.

4.6 Temporary Occupancy. No trailer, tent, shack, garage, barn or other structure, and no temporary Improvement of any kind shall be used at any time for a residence either temporarily or permanently. Temporary buildings or structures used during the construction of Buildings or structures approved by the Board shall be permitted but must be removed promptly upon completion of the construction of the Building or structure.

4.7 Private Yards. All Owners, tenants and/or other occupants shall keep Private Yards neat, clean, attractive and free from debris, clutter or other unsightly items as determined by the Board.

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

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

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

4.11 General Restrictions Regarding Parking of Vehicles. No truck (other than a Family Vehicle truck described below), mobile home, mini or standard size motor home, travel trailer, tent trailer, trailer, all-terrain vehicle, bus, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle (hereinafter in this Article 4 referred to as "Commercial Vehicles") may be parked, kept, or maintained on any part of the Condominium. A "Family Vehicle" means any domestic or foreign car, station wagon, sport wagon, pick-up truck of less than 3/4 ton capacity with camper shells not exceeding eight (8) feet in height measured from ground level, mini-van, jeep, sport utility vehicle, motorcycle and similar non-commercial and non-recreational vehicles that are used by the Owner of the Unit or his family members, tenants, guests or invitees for family and domestic purposes and which are used on a regular and recurring basis for basic transportation. The Board may, acting in good faith, designate a Commercial Vehicle as a Family Vehicle, if prior to use, the Unit Owner petitions the Board to classify the same as a Family Vehicle if the Commercial Vehicle is similar in size and appearance to a Family Vehicle and the parking of such Vehicle on the Condominium will not adversely affect the Condominium or the Owners of Units therein. Family Vehicles and Commercial Vehicles are collectively referred to in this Article 4 as "Vehicles."

4.12 Uncovered Parking Spaces. Unit Owners and all other lawful residents of a Unit shall be limited to use of not more than one Uncovered Parking Space at any one time.

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

4.14 Signs. No emblem, logo, sign or billboard of any kind other than "For Sale" or "For Rent" signs, shall be displayed so that it is visible from the exterior of any Unit or Building or any other portion of the Condominium without the prior written approval of the Board; except for: (i) signs used by Declarant to advertise the Units for sale or lease; (ii) signs on the Common Elements as may be placed or approved by the Declarant during the Period of Declarant Control, or by the Board, thereafter; (iii) any signs as may be required by legal proceedings; and (iv) such signs as are approved by the Board.

4.15 Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of any part of the Condominium. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the Condominium shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

4.16 Nuisances and Offensive Activity. No nuisance shall be permitted to exist or operate upon the Condominium, and no activity shall be conducted upon the Condominium which is offensive or detrimental to any portion of the Condominium or any Unit Owner or other occupant of the Condominium. No exterior speakers, horns, whistles, bells or other sound devices, except security or other emergency devices used exclusively for security or emergency purposes, shall be located, used or placed on the Condominium. Notwithstanding the foregoing, outdoor speakers shall be permitted provided they are not operated in such a way as to create a nuisance.

4.17 Window Coverings. No reflective materials, including, without limitation, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Unit without the prior written approval of the Board.

4.18 Limitation on Leasing of Units. No Unit Owner may lease less than his entire Unit. The Units shall not be rented by the Owners thereof for transient or hotel purposes which shall be defined as (a) rental for any period less than three (3) consecutive full calendar months or (b) any rental if the occupants of the Unit are provided customary hotel service such as room service for food or beverages, maid service, laundry or linen service or bellboy service. All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Condominium Documents, and any failure by the lessee to comply with the terms of the Condominium Documents shall be a default under the lease. Upon leasing his Unit, a Unit Owner shall promptly notify the Association of the commencement date and termination date of the lease and the names of each lessee or other person who will be occupying the Unit during the term of the lease. Nothing contained in this Section 4.18 shall be construed as limiting or in any way affecting any leasing program operated by Declarant in the Condominium with regard to its Units.

4.19 Community Privacy Measures. Each Unit Owner understands and agrees that neither the Association (nor its officers, directors, employees, and agents) nor the Declarant (nor its officers, directors, employees and agents) is responsible for the acts and omissions of any third parties or of any other Owner or Owner's family members, guests, tenants and invitees resulting in damages or injury to person or property. Any entry/privacy gate features or common privacy measures that may be used in the Condominium (as installed by Declarant, at its option, or by the Board on behalf of the Association) will be maintained by the Association, and each Unit Owner understands that any entry/privacy gate features that are in effect at the time he becomes a Unit Owner may be abandoned, terminated and/or modified by a majority vote of the Board. The commencement of any such devices or controls shall not be deemed to be an assumption

of any duty on the part of the Association or the Declarant with respect to the Condominium and neither Declarant, the Board (nor any committee thereof) make any representation or warranty concerning the efficacy of such devices relating to security or the ease of entry of fire, police or other emergency personnel.

4.20 Variances. The Board may authorize a variance from compliance with any of the provisions of this Declaration, including this Article 4 from time to time, when circumstances such as hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and must be signed by a majority of the Board. If such variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the specific matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, and only for so long as the special circumstances warranting the variance exist, nor shall it affect in any way the Unit Owner's obligation to comply with all governmental laws and regulations affecting the use of his Unit. The Board shall have the right to condition the granting of a variance as it may determine in the Board's sole discretion, including, without limitation; making a variance temporary or permanent; or requiring the removal or replacement of a non-permanent or semi-permanent structure upon the sale or other conveyance of a Unit. Moreover, because of the unique facts and circumstances surrounding each variance request, the granting of a variance in one instance or under certain terms and conditions does not mandate the granting of a variance under similar or related circumstances, terms or conditions if the experiences of the Association and the Condominium as a whole or the differences in circumstances (however slight) of a variance request from a previously approved variance lead the Board, in good faith, to disapprove a variance request in such instance.

ARTICLE 5

MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.0 Duties of the Association. The Association shall maintain, repair and make necessary improvements to all Common Elements (including the structural elements of Limited Common Elements), whether located inside or outside the Buildings, except for the specific portions of the Limited Common Elements which the Unit Owners are obligated to maintain pursuant to Section 5.1 of this Declaration. Without limitation, the Association shall be responsible for maintaining, repairing, replacing and making all necessary improvements to residential Building exteriors, roofs, parking areas, parking canopies, private streets and drives, sidewalks, landscaping, irrigation systems, lighting and light fixtures in the Common Elements, and all water, sewer and other utility lines, equipment or facilities of any kind or nature located in the Common Elements or Limited Common Elements. The cost of all such repairs, maintenance and improvements shall be a Common Expense and shall be paid for by the Association. The Board shall be the sole and absolute judge as to the appropriate maintenance of the Common Elements and the Condominium.

5.1 Duties of Unit Owners.

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

(B) Each Unit Owner shall be responsible for the maintenance and repair of the Limited Common Elements allocated to his Unit pursuant to Section 2.5 of this Declaration as Limited Common Elements, including, without limitation: (i) periodic painting of, and maintenance of the concrete slabs or finished flooring of, the patio, if any, (except for repair to the structural portions thereof); (ii) maintenance, repair and replacement of all doors, windows and garage door of the Unit; and (iii) the air conditioning unit (including compressors and condensers), heater and hot water heater servicing the Unit and, to the extent not included within the categories described in this Section 5.1 (B), the Limited Common Elements of the type described in Sections 2.1 (B) and (D) above. No Unit Owner may paint or change the exterior color scheme or surfacing materials of his Private Yard or any portion of the Limited Common Elements allocated to his Unit visible from the Common Elements or any other Unit without the prior written consent of the Board.

(C) Each Unit Owner shall take all necessary action to keep his Unit and the Limited Common Elements which he is obligated to maintain under this Section 5.1 clean and free from unsightly accumulations of trash, furniture in weathered or poor condition, and litter.

(D) Each Unit Owner shall be responsible for the maintenance of the Private Yard allocated to his Unit pursuant to Section 2.5 of this Declaration as Limited Common Elements, including but not limited to, all landscaping, irrigation, mowing of lawns, pruning of shrubbery, weed control, and removal and replacement of dead trees and shrubs.

5.2 Repair or Restoration Necessitated by Unit Owner. Each Unit Owner shall be liable to the Association, to the extent permitted by Arizona law, for any damage to the Common Elements or the Improvements, or equipment thereon, which results from the negligence or willful misconduct or omission of the Unit Owner or that Owner's family members, tenants, guests, invitees and pets. The cost to the Association of any such repair, maintenance or replacement required by such act or omission of a Unit Owner shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments.

5.3 Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair his Unit or any Limited Common Element which he is obligated to maintain under this Declaration in the manner set forth in this Declaration and the required maintenance, repair or replacement is not performed within thirty (30) days after written notice has been given to the Unit Owner by the Association, the Association shall have the right, but not the obligation, to perform the required

maintenance, repair or replacement. The cost of any such maintenance, repair or replacement shall be assessed against the nonperforming Unit Owner pursuant to Section 7.1 of this Declaration.

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

5.5 Sprinkler System. In accordance with the requirements of the City of Phoenix, each Unit will be equipped with a sprinkler system. The heads of the sprinkler system will intrude into the Unit. All water supply and sprinkler pipes, heads and other parts of the sprinkler system (located within the Unit) shall belong to the Unit and shall be maintained, repaired and replaced by the Unit Owner. If an Owner, Lessee, or Occupant or their Invitees causes the sprinkler system to be activated (except in the case of a fire) or damages or destroys any part of the sprinkler system, the Owner of the Unit shall be responsible for the cost of any repairs to the sprinkler system made by the Association and for all other losses or damages resulting from such actions.

ARTICLE 6 THE ASSOCIATION; RIGHTS AND DUTIES; MEMBERSHIP

6.0 Rights, Powers and Duties of the Association. No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as a nonprofit Arizona corporation. The Association shall be the entity through which the Unit Owners shall act. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Condominium Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in this Declaration and the Condominium Act.

The Association shall have the right to finance capital Improvements in the Condominium by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Unit Owners representing more than fifty percent (50%) of the votes in the Association and by Declarant during the Period of Declarant Control. Unless the Condominium Documents or the Condominium Act specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Association has the specific duty to make available to the Declarant, Eligible Mortgage Holders, Unit Owners, and Eligible Insurers or Guarantors during normal business hours, current copies of the Condominium Documents and other books, records and financial statements of the Association as may be requested from time to time by such parties. Such requests shall be in writing, and the Association shall have the right to charge for copying expenses and the reasonable cost of postage, shipping or transmission of the information requested.

6.1 Directors and Officers.

(A) During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board of Directors and the officers of the Association, which such officers and/or directors, do not have to be Unit Owners.

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

(C) The Declarant may voluntarily surrender his right to appoint and remove the members of the Board of Directors and the officers of the Association before termination of the Period of Declarant Control, and in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

6.2 Rules. The Members, by a vote of two-thirds of the Membership, from time to time and subject to the provisions of this Declaration and the Condominium Act, may adopt, amend, and repeal rules and regulations. The Rules may, among other things, restrict and govern the use by any Unit Owner, by the family of such Unit Owner, or by any invitee, licensee or lessee of such Unit Owner, of any area within the Condominium subject to the Association's jurisdiction and control; provided, however, that the Rules may not unreasonably discriminate among Unit Owners and shall not be inconsistent with the Condominium Act, the applicable federal and state Fair Housing Acts, this Declaration, the Articles or Bylaws. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Unit Owner and may be recorded.

6.3 Composition of Members. Each Unit Owner shall be a Member of the Association. The membership of the Association at all times shall consist exclusively of

all the Unit Owners. Membership in the Association is mandatory and such Membership and the Allocated Interests thereof are appurtenant thereto, and may not be separated from, ownership of the Unit; provided, however, the Allocated Interests of Units from time to time may be modified or changed as expressly permitted in this Declaration and authorized under the Condominium Act. No Owner during his ownership of a Unit shall have the right to relinquish or terminate his membership in the Association.

6.4 Utility Services. The Association shall acquire and pay for water, sewer, electrical, and other utility service for the Common Elements. Each Unit will be separately metered for electricity and water and all charges for electricity and water service to a Unit shall be paid by the Owner of the Unit.

ARTICLE 7 ASSESSMENTS

7.0 Preparation of Budget.

(A) At least sixty (60) days (or soon thereafter as feasible) before the beginning of the first full fiscal year of the Association after the first Unit is conveyed to a Purchaser and each fiscal year thereafter, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board of Directors believes will be required during the ensuing fiscal year to pay all Common Expenses including, but not limited to: (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units, if any, which the Association has the responsibility of maintaining, repairing and replacing; (ii) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (iii) the amount required to render to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; and (iv) such amounts as are necessary to provide general operating reserves and reserves for contingencies and replacements. The budget shall separately reflect any Common Expenses to be assessed against less than all of the Units pursuant to Section 7.1(D) or (E) of this Declaration and must include an adequate allocation to reserves as part of the Common Expense Assessment.

(B) Within thirty (30) days after the adoption of a budget, the Board of Directors shall send to each Unit Owner a summary of the budget and a statement of the amount of the Common Expense Assessment assessed against the Unit of the Unit Owner in accordance with Section 7.1 of this Declaration. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as provided in Section 7.1 of this Declaration and each Unit Owner shall continue to pay the Common Expense Assessment against his Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been established by the Board of Directors.

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

7.1 Common Expense Assessment.

(A) For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors (except for the Common Expenses which are to be assessed against less than all of the Units pursuant to subsections (D) and (E) of this section) shall be assessed against each Unit in the proportion to the Unit's Common Expense Liability as set forth in Section 2.3 of this Declaration. If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date designated by the Board of Directors, except that no increase in the Common Expense Assessment assessed pursuant to this subsection (A) exceeding the maximum Common Expense Assessment for such fiscal year shall become effective until approved by Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

(B) The Common Expense Assessments shall commence as to all Units on the first day of the month following the conveyance of the first Unit to a Purchaser. The first Common Expense Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors may require that the Common Expense Assessments or Special Assessments be paid in installments. Unless otherwise directed by the Board, Common Expense Assessments shall be paid in monthly installments and shall be due and payable on the first day of each month.

(C) Except as otherwise expressly provided for in this Declaration, all Common Expenses and reserves for Common Expenses shall be assessed against all of the Units in accordance with subsection (A) of this section.

(D) If any Common Expense is caused by the negligence, omission or willful misconduct of any Unit Owner, the Association shall assess that Common Expense exclusively against his Unit.

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

(F) The Common Expense Assessment for any Unit in the Condominium on which construction has not been "substantially completed" shall be an

amount equal to twenty-five percent (25%) of the Common Expense Assessment for Units which have been substantially completed. So long as any Unit owned by the Declarant qualifies for the reduced Common Expense Assessment provided for in this subsection (F), and, only if Declarant elects to pay such reduced Assessment, the Declarant shall be obligated to pay to the Association any deficiencies in the monies resulting from the Declarant having paid a reduced Common Expense Assessment and necessary for the Association to be able to timely pay all Common Expenses. Without limiting the foregoing, "substantial completion" of a Unit shall mean a Unit that is ready for immediate occupancy by a resident either by sale or lease and contains all ordinary and customary necessary kitchen, bathroom and flooring fixtures for that purpose.

7.2 Special Assessments. In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any Special Assessment shall have first been approved by Unit Owners representing two-thirds (2/3) of the votes in the Association and who are voting in person or by proxy at a meeting duly called for such purpose and approved by Declarant, during the Period of Declarant Control. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Unit Owners.

7.3 Notice and Quorum for Any Action Authorized Under Section 7.1 or 7.2. Written notice of any meeting called for the purpose of obtaining the consent of the Members for any action for which the consent of Members is required under Sections 7.1 or 7.2 shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

7.4 Effect of Nonpayment of Assessments Remedies of the Association.

(A) Any Assessment, or any installment of an Assessment, which is not paid within fifteen (15) days after the Assessment first became due shall be deemed delinquent and shall bear interest from the date of the delinquency at the rate of twelve percent (12%) per annum. In addition, the Board of Directors may establish a reasonable late fee to be charged to a Unit Owner and assessed against his Unit as part of the Assessment Lien for each installment of an Assessment that is deemed delinquent.

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

(C) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, monetary penalties and all other fees and charges owed to the Association in any manner allowed by law, including, but not limited to (i) bringing an action at law against the Unit Owner personally obligated to pay the delinquent amounts which came due at the time he was the Owner thereof and such action may be brought without waiving the Assessment Lien securing any such delinquent amounts, provided, however, that the personal obligation to pay delinquent Assessments which came due prior to the transfer of ownership shall not pass to successors in title; (ii) bringing an action to foreclose its Assessment Lien against the Unit in the manner provided by law for the foreclosure of a realty mortgage; and (iii) suspending voting and recreational amenities use rights as provided in the Bylaws. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale.

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

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

7.7 Certificate of Payment. The Association, on written request, shall furnish to a lienholder, Unit Owner or Person designated by a Unit Owner, a recordable statement setting forth the amount of unpaid Assessments against his Unit. The statement shall be furnished within twenty (20) business days after receipt of the request and is

binding on the Association, the Board of Directors, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement. In addition, the Association shall furnish such statements as may be required under A.R.S. §33-1260 within the time frames set forth therein for compliance.

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

7.9 Surplus Funds. Surplus funds of the Association remaining after payment of or provisions for Common Expenses and any prepayment of reserves may in the discretion of the Board of Directors either be returned to the Unit Owners pro rata in accordance with each Unit Owner's Common Expense Liability or be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Liability.

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

7.11 Reserves.

7.11.1 The Board of Directors shall establish reserves for the future periodic maintenance, repair or replacement of the major components of the Common Elements which the Association is obligated to maintain, repair and replace. The reserves may be funded from Common Expense Assessments or any other revenue of the Association. All amounts designated as reserves shall be deposited by the Board of Directors in a separate bank account (the "Reserve Account") to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Withdrawal of funds from the Association's reserve account shall require the signatures of either (a) two (2) members of the Board of Directors; or (b) one (1) member of the Board of Directors and an officer of the Association who is not also a member of the Board of Directors. The Board of Directors shall obtain a reserve study at least once every three years, or as otherwise directed by the Board, which study shall at a minimum include (a) identification of the major components of the Common Elements which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years; (b) identification of the probable remaining useful life of the identified major components as of the date of the stud; (c) an estimate of the cost of repair, replacement, restoration, or maintenance of the identified major components during and at the end of their useful life; (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the identified major

components during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

7.11.2 Unless the Association is exempt from Federal or State taxes, all reserves shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulation of the Internal Revenue Service that will prevent such funds from being taxed as income of the Association.

ARTICLE 8 INSURANCE

8.0 Scope of Coverage.

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

(i) Property insurance on the Common Elements and Units, exclusive of improvements and betterments which were not part of the original construction. The policy is to be issued on a "Special Form" policy or its equivalent in an amount determined by the Board of Directors; provided, however, that the total amount of insurance shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a master or blanket hazard and multi-peril property insurance policy.

(ii) Comprehensive General Liability insurance, for a limit to be determined by the Board, but not less than \$1,000,000.00 for any single occurrence and \$2,000,000 general aggregate. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements.

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

(iv) Directors' and officers' liability insurance covering all the directors and officers of the Association in such limits as the Board of Directors may determine from time to time. The directors' and officers' policy shall have a limit of no less than one million dollars (\$1,000,000.00) per claim [in year 2004 dollars.]

(v) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board of Directors, or the Unit Owners.

All policies shall be procured from carriers with a rating of "A" or better.

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

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

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

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

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

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

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

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

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

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

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

8.1 Payment of Premiums. Premiums for all insurance obtained by the Association pursuant to this Article and all deductibles thereunder shall be Common Expenses and shall be paid for by the Association.

8.2 Insurance Obtained by Unit Owners/Non-Liability of Association. The issuance of insurance policies to the Association pursuant to this Article 8 shall not prevent a Unit Owner from obtaining insurance for his own benefit and at his own expense covering his Unit, his personal property and providing personal liability coverage. Notwithstanding the obligation of the Association to obtain insurance coverage as stated in this Declaration, neither the Declarant nor the Association, or their respective officers, directors, employees and agents, shall be liable to any Unit Owner or any other party if any risks or hazards are not covered by the insurance to be maintained by the Association or if the amount of the insurance is not adequate, and it shall be the responsibility of each Unit Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for any additional insurance coverage and protection that the Unit Owner may desire.

8.3 Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article 8 shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in § 33-1253 of the Condominium Act.

8.4 Certificate of Insurance. An insurer that has issued an insurance policy pursuant to this Article 8 of the Declaration shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner, mortgagee, or beneficiary under a Deed of Trust. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known address.

ARTICLE 9 RIGHTS OF FIRST MORTGAGEES

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

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

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

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

(D) Any proposed action which requires the consent of a specified percentage of Eligible Mortgage Holders as set forth in Section 9.1 of this Declaration.

9.1 Approval Required for Amendment to Condominium Documents.

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

- (i) Voting rights;
- (ii) Assessments, Assessment Liens, or subordination of Assessment Liens;
- (iii) Reserves for maintenance, repair and replacement of Common Elements;
- (iv) Insurance or fidelity bonds;
- (v) Responsibility for maintenance and repairs;
- (vi) Expansion or contraction of the Condominium, or the addition of property to Condominium;
- (vii) Boundaries of any Unit;
- (viii) Reallocation of interests in the Common Elements or Limited Common Elements or rights to their use;
- (ix) Convertibility of Units into Common Elements or of Common Elements into Units;
- (x) Leasing of Units;
- (xi) Imposition of any restriction on a Unit Owner's right to sell or transfer his Unit;

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

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

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

(B) Any action to terminate the legal status of the Condominium for reasons other than substantial destruction or condemnation of the Condominium must be approved by Unit Owners representing at least eighty percent (80%) of the total allocated votes in the Association and by Eligible Mortgage Holders holding First Mortgages on Units the Unit Owners of which have at least sixty-seven percent (67%) of the votes in the Association allocated to Unit Owners of all Units subject to First Mortgages held by Eligible Mortgage Holders.

(C) Any First Mortgagee who receives a written request to approve additions or amendments to any of the Condominium Documents, which additions or amendments are not material, who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request. Any addition or amendment to the Condominium Documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

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

9.2 Prohibition Against Right of First Refusal. The right of a Unit Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction. This Section 9.2 may not be amended without the consent of all First Mortgagees then of record.

9.3 Right of Inspection of Records. Any Unit Owner, First Mortgagee or Eligible Insurer or Guarantor shall, upon written request, be entitled to (i) inspect the current copies of the Condominium Documents and the books, records and financial statements of the Association during normal business hours; (ii) receive within ninety (90) days following the end of any fiscal year of the Association, an audited financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

9.4 Prior Written Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the Units or the Common Elements, unless at least two thirds (2/3) of all First Mortgagees (based upon one vote for each First

Mortgage owned) or Unit Owners (other than the Declarant) of the Units have given their prior written approval, the Association shall not be entitled to:

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

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

(C) Partition or subdivide any Unit;

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

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

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

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

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

9.7 Limitation on Partition and Subdivision. No Unit shall be partitioned or subdivided without the prior written approval of any First Mortgagee of that Unit. This Section 9-7 may not be amended without the consent of all First Mortgagees then of record.

9.8 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article 9 and any other provision of the Condominium Documents, the provisions of this Article 9 shall prevail; provided, however, that in the event of any conflict or inconsistency between the different sections of this Article 9 and any other provision of the Condominium Documents with respect to the number or percentage of Unit Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors that must consent to (i) an amendment to any of the Condominium Documents; (ii) a termination of the Condominium; or (iii) certain actions of the Association as specified in Sections 9.1 and 9.4 of this Declaration, the provision requiring the consent of the greatest number or percentage of Unit Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers or Guarantors shall prevail; provided, however, that the Declarant, without the consent of any Unit Owner or First Mortgagee being required, shall have the right to amend the Condominium Documents to comply with (i) the Condominium Act; (ii) the requirements or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or (iii) the rules or requirements of any federal, state or local governmental agency whose approval of the Condominium or the Condominium Documents is required by law or requested by the Declarant.

ARTICLE 10 DISPUTE RESOLUTION

10.1 Agreement to Resolve Certain Disputes Without Litigation. As used in this Article 10, the term "Claim" shall mean: (a) any claim or cause of action arising out of or related in any way to the planning, design, engineering, grading, construction or development of the Common Elements, the Units or any other part of the Condominium, including, without limitation, any claim or cause of action that the Common Elements or the Units are defective or that the Declarant, its agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof; or (b) any claim or cause of action against the Declarant or any employee, agent, director, member or officer of Declarant arising out of or in any way related to the development of the Property or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty. The Association, the Declarant, all Owners, Lessees, Occupants and other Persons bound by this Declaration, and any Person not otherwise bound by this Declaration who agrees to submit to this Article (collectively, the "Bound Parties") agree that the dispute resolution procedures set forth in this Article shall apply to all Claims.

10.2 Notice of Claim. Any Bound Party who contends or alleges to have a Claim (a "Claimant") against any other Bound Party (a "Respondent") shall notify each Respondent in writing of the Claim (the "Claim Notice"), stating plainly and concisely: (a) the nature of Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; and (c) what

Claimant wants Respondent to do or not do to resolve the Claim. In the event the Claimant is the Association, the Association must provide written notice to all Members prior to delivering a Claim Notice to a Bound Party or initiating any legal action, cause of action, proceeding, or arbitration against any Bound Party which notice shall (at a minimum) include: (a) a description of the Claim; (b) a description of the attempts of Declarant or any other Bound Party to correct such Alleged Defect and the opportunities provided to Declarant or any other Bound Party to correct such Alleged Defect; (c) the estimated cost to repair such Alleged Defect; (d) the name and professional background of the attorney retained by the Association to pursue the claim and a description of the relationship between such attorney and member(s) of the Board of Directors (if any); (e) a description of the fee arrangement between such attorney and the Association; (f) the estimated attorney's fees and expert fees and costs necessary to pursue the Claim and the source of the funds which will be used to pay such fees and expenses; (g) the estimated time necessary to conclude the action; and (h) an affirmative statement from the Board of Directors that the action is in the best interest of the Association and its Members. If the Alleged Defect is alleged to be the result of an act or omission of a person licensed by the State of Arizona under Title 20 or Title 32 of the Arizona Revised Statutes (a "Licensed Professional"), then the Claim Notice from the Association must be accompanied by an affidavit from a Licensed Professional in the same discipline as the Licensed Professional alleged to be responsible for the Alleged Defect. The affidavit must contain the information required to be contained in a preliminary expert opinion affidavit submitted pursuant to Section 12-2602B of the Arizona Revised Statutes.

10.3 Mediation.

10.3.1 If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be agreed upon by the Parties ("Termination of Negotiations"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation under the auspices of the American Arbitration Association or such other mediator or mediation service as may be mutually agreed to by the Claimant and the Respondent.

10.3.2 If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim.

10.3.3 If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

10.4 Binding Arbitration. In the event a Claim is not resolved by mediation, the Claimant shall have fifteen (15) days after the date of the Termination of Mediation

Notice to submit the Claim to binding arbitration in accordance with this Section 10.4. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. If the Claimant submits the Claim to binding arbitration in accordance with this Section, the arbitration shall be conducted in accordance with the following rules:

(A) Initiation of Arbitration. The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the American Arbitration Association ("AAA") Commercial Arbitration Rules, as amended from time to time (the "AAA Rules").

(B) Governing Procedures. The arbitration shall be conducted in accordance with the AAA Rules and A.R. S. § 12-1501, et seq. In the event of a conflict between the AAA Rules and this Section 10.4, the provisions of this Section 10.4 shall govern.

(C) Appointment of Arbitrator. The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection (c) is referred to in this Section 10.4 as the "Arbitrator".

(D) Qualifications of Arbitrator. The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges.

(E) Disclosure. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection (c) above.

(F) Compensation. The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(G) Preliminary Hearing. Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which

may be addressed include, in addition to those set forth in the AAA Rules, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

(H) Management of the Arbitration. The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(I) Confidentiality. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(J) Hearings. Hearings may be held at any place within the State of Arizona designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(K) Final Award. The Arbitrator shall promptly (but, in no event later than sixty (60) days following the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator) against the non-prevailing party.

10.5 Right to Enter, Inspect, Repair and/or Replace. Following the receipt by Declarant of a Claim Notice, Declarant and its employees, agents, contractors and consultants shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into, as applicable, the Common Elements and any Unit for the purposes of inspecting and/or conducting testing to determine the validity of the Claim and, if deemed necessary by the Declarant, to correct, repair and/or replace the

alleged deficiency in the planning, design, engineering, grading, compacting, construction or development of the Common Elements or any Unit which is the basis for the Claim (the "Alleged Defect"). In conducting such inspection, testing, repairs and/or replacement, Declarant shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances. Nothing set forth in this Section shall be construed to impose any obligation on Declarant to inspect, test, repair, or replace any item or Alleged Defect for which Declarant is not otherwise obligated under applicable law or any warranty provided by Declarant in connection with the sale of the Units. The right of Declarant and its employees, agents, contractors and consultants to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and Recorded by Declarant. In no event shall any statutes of limitations be tolled during the period in which Declarant conducts any inspection or testing of any Alleged Defects.

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

10.7 Approval of Litigation. The Association shall not deliver a Claim Notice to any Bound Party or commence any legal action or arbitration proceeding or incur any legal expenses (including without limitation, attorney's fees), in connection with any Claim without the written approval of Owners entitled to cast one-hundred percent (100%) of the total votes in the Association, excluding the voting power of any Owner who would be a defendant in such proceedings. The Association shall not borrow money or use reserve funds to pay legal fees or the fees of expert witnesses or consultants. In the event that the Association commences any legal action or arbitration proceeding involving a Claim, all Owners must notify prospective purchasers of such legal action or arbitration proceeding and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 10.2.

10.8 Statute of Limitations. All statutes of limitations applicable to Claims which are subject to binding arbitration pursuant to Section 10.4 shall apply to the commencement of arbitration proceedings. If the arbitration proceedings are not initiated within the time provided in Section 10.4, the Claim shall forever be barred.

10.9 Conflicts. In the event of any conflict between this Article 10 and any other provision of the Condominium Documents, this Article 10 shall control.

ARTICLE 11 GENERAL PROVISIONS

11.0 Enforcement. The Association, or any Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants,

reservations, liens or charges now or hereafter imposed by the provisions of the Condominium Documents. Failure by the Association or by any Unit Owner to enforce any covenant or restriction contained in the Condominium Documents shall in no event be deemed a waiver of the right to do so thereafter. To the extent that this Declaration grants Declarant, the Association or any Unit Owner the right to use summary abatement or similar means to enforce the restrictions set forth in this Declaration, judicial proceedings must be instituted before any items of construction can be altered or demolished. Each Unit Owner shall be subject to all rights and duties assigned to Unit Owners under this Declaration.

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

11.2 Duration. Except as they may be earlier terminated or amended pursuant to Sections 11.3 and 11.4 below, the covenants and restrictions of this Declaration shall run with and bind the Condominium for a term of twenty (20) years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years.

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

11.4 Amendment.

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

(B) Except to the extent expressly permitted or required by the Condominium Act, an amendment to the Declaration shall not create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any Unit, the allocated interest of a Unit, or the use as to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners. After the expiration of the Period of Declarant Control, an amendment to this Declaration shall not amend or delete any provision of Article 10 unless the Declarant approves the amendment in writing.

(C) An amendment to the Declaration shall not terminate or decrease any unexpired Development Right, Special Declarant Right or Period of Declarant Control unless the Declarant approves the amendment in writing. In addition, any amendment to this Declaration adopted during the Period of Declarant Control must be approved in writing by the Declarant, and no amendment to Article 10 shall be effective unless the Declarant approves the amendment in writing even if the Declarant no longer owns any Unit at the time of such amendment.

(D) During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to comply with (i) the Condominium Act; (ii) the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; or (iii) the rules or requirements of any federal, state or local governmental entity or agency whose approval of the Condominium, the Plat or any other Condominium Document is required by law or requested by the Declarant.

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

(F) Any amendment adopted by the Unit Owners pursuant to subsection (A) above shall be signed by the President or Vice-President of the Association and shall be recorded in the Official Records of the Maricopa County, Arizona Recorder. Any such amendment shall certify that the amendment has been approved as required by this section. Any amendment made by the Declarant pursuant to subsection (D) or (E) of this section or the Condominium Act shall be executed by the Declarant and shall be recorded in the Official Records of the Maricopa County, Arizona Recorder.

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

11.6 Notices. All notices, demands, statements or other communications required to be given or served under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States first class mail, postage prepaid, addressed as follows: (i) if to a Unit Owner, at the address at which the Unit Owner shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Unit Owner; or (ii) if to the Association or the Declarant, to 130 North Central Avenue, Suite 201, Phoenix, Arizona 85004, or such other address as shall be designated by notice in writing to the Unit Owners pursuant to this section. A Unit Owner may change his address on file with the Association for receipt of notices by delivering a written notice of change of address

to the Association pursuant to this section. A notice given by mail, whether regular, certified or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three days after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Each Unit Owner shall file his correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

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

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

11.9 Topic Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or of this Declaration.

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

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

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

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

11.14 Attorneys' Fees and Costs. In the event the Declarant, the Association or any Unit Owner employs an attorney or attorneys to enforce an Assessment Lien or to collect any amounts due from a Unit Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Condominium Documents, the prevailing party in any such action shall be entitled to recover from the other party his reasonable attorneys' fees and costs, including expert fees, incurred in the action.

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

11.16 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Unit Owner of any restriction or provision of the Condominium Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (i) the name of the Unit Owner; (ii) the legal description of the Unit against which the notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Unit Owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the Unit Owner and to any subsequent purchaser of the Unit that there is a violation of the provisions of the Condominium Documents. If, after the recordation of such Notice, it is determined by the Association that the violation referred to in the Notice has been cured, the Association shall record a notice of compliance which shall state the legal description of the Unit against which the Notice of Violation was recorded, the recording data of the Notice of Violation, and shall state that the violation referred to in the Notice of Violation has been cured, or if such be the case, that it did not exist.

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

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

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

DECLARANT:

Willetta 9 LLC, an Arizona limited liability company

By: Allen D. Smith

Its: Managing Member

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 11th day of March, 2004, by Allen Smith, as Managing Member of Willetta 9, LLC, an Arizona ~~corporation.~~ limited liability co.

Angela D. Wellman
Notary Public

My Commission Expires:

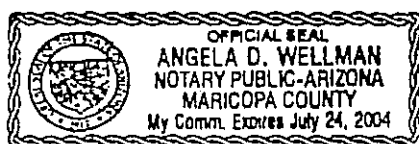


EXHIBIT A
PROPERTY SUBJECT TO THE CONDOMINIUM

EXHIBIT "A"

Units 1 through 9, WILETTA 9, A CONDOMINIUM, according to the plat of record in the office of the Maricopa County Recorder recorded in Book _____ of Maps, Page ____.