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Scottsdale, Arizona 85260

**1ST AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM AND OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

**DEVONSHIRE SQUARE,
A CONDOMINIUM**

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EXHIBITS:

Exhibit A – Legal Description of Real Property Subjected to this Declaration

1st AMENDED AND RESTATED
CONDOMINIUM DECLARATION
FOR
DEVONSHIRE SQUARE,
A CONDOMINIUM

This Condominium Declaration for DEVONSHIRE SQUARE, a condominium, is made this 3rd day of May, 2006, by DEVONSHIRE PLACE CONDOMINIUMS, L.L.C., an Arizona limited liability company and supersedes and replaces any and all previous declarations in their entirety.

ARTICLE 1
DEFINITIONS

1.1 General Definitions. Capitalized terms not otherwise defined in this Declaration shall have the meanings specified for such terms in the Arizona Condominium Act, Arizona Revised Statutes ("A.R.S.") §33-1201, et seq., as amended from time to time, or any successor statutes.

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

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

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

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

1.2.4 "Association" means the DEVONSHIRE SQUARE CONDOMINIUM ASSOCIATION, INC., an Arizona nonprofit corporation, its successors and assigns.

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

1.2.6 "Building" means the structures designated as buildings on the Plat.

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

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

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

1.2.10 "Common Expense Assessment" means the assessment levied against the Units pursuant to Section 7.2 of this Declaration.

1.2.11 "Common Expense Liability" means the liability for Common Expenses allocated to each Unit by this Declaration.

1.2.12 "Condominium" means the real property located in Maricopa County, Arizona, which is described in Exhibit A attached to this Declaration, together with all buildings and other Improvements located thereon.

1.2.13 "Condominium Act" or "Act" means the Arizona Condominium Act, A.R.S. §33-1201, et seq., as amended from time to time, or any successor statutes.

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

1.2.15 "Declarant" means DEVONSHIRE PLACE CONDOMINIUMS, L.L.C., an Arizona limited liability company, and its successors and any person or entity to which it may transfer any Special Declarant Right.

1.2.16 "Declaration" means this Condominium Declaration, as amended from time to time.

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

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

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

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

(iv) Amend the Declaration during the Period of Declarant Control to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including, without limitation, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration.

1.2.18 "Eligible Insurer Or Guarantor" means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters in accordance with Section 9.1 of this Declaration.

1.2.19 "Eligible Mortgage Holder" means a First Mortgagee who has requested notice of certain matters from the Association in accordance with Section 9.1 of this Declaration.

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

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

1.2.22 "Improvement" means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Condominium, including, but not limited to, buildings, private drives, paving, fences, walls, hedges, plants, trees and shrubs of every type and kind.

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

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

1.2.25 "Period of Declarant Control" means the time period commencing on the date this Declaration is recorded with the County Recorder of Maricopa County, Arizona, 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 to Unit Owners other than the Declarant; or (ii) Four (4) years after all Declarants have ceased to offer Units for sale in the ordinary course of business.

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

1.2.27 "Plat" means the condominium plat for DEVONSHIRE SQUARE, a condominium, which plat has been recorded in Book 834 of Maps, page 40 Recording No. 2006-059,813 records of Maricopa County, Arizona, and any amendments, supplements or corrections thereto.

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

1.2.29 "Rules" means the rules and regulations adopted by the Association, as amended from time to time.

1.2.30 "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, models, and signs advertising the Condominium;

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

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

1.2.31 "Unit" means a portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Section 2.5 of this Declaration.

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

ARTICLE 2
SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATIONS
OF PERCENTAGE INTERESTS, VOTES AND
COMMON EXPENSE LIABILITIES

2.1 Submission of Property. Declarant is the owner of real property described on Exhibit A attached hereto, and Declarant hereby submits the real property described on Exhibit A attached to this Declaration, together with all Improvements situated thereon and all easements, rights and appurtenances thereto, to the provisions of this Declaration and the Condominium Act for the purpose of creating a condominium in accordance with the provisions of this Declaration and the Condominium Act and hereby declares that the real property described on Exhibit A attached to this Declaration, together with all Improvements situated thereon, and all easements, rights and appurtenances thereto, shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration. The Declarant designates each Unit for separate ownership or occupancy. The Declarant further declares that all of the easements, restrictions, conditions, and covenants in this Declaration shall run with the Parcel and shall be binding upon and inure to the benefit of the Declarant and all Unit Owners, Lessees, and Occupants and all other Persons having or acquiring any right, title or interest in the Condominium or any part thereof, their heirs, successors, successors in title and assigns. Each Person who acquires any right, title or interest in the Condominium, or any part thereof, agrees to abide by all the provisions of the Condominium Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association. The Declarant makes no warranties or representations, express or implied, as to

the binding effect or enforceability of all or any portion of the Condominium Documents, or as to the compliance of any of the provisions of the Condominium Documents with public laws, ordinances and regulations applicable thereto.

2.2 Name of Condominium. The name of the Condominium created by this Declaration is DEVONSHIRE SQUARE, a condominium.

2.3 Name of Association. The name of the Association is DEVONSHIRE SQUARE CONDOMINIUM ASSOCIATION, INC.

2.4 Identifying Numbers of Units. There are a total of twenty-six (26) Units in the Condominium. The identifying numbers of the Units are 101 through 110; 201 through 205, 208, 209, 210; 301 through 305, 308, 309 and 310.

2.5 Unit Boundaries.

2.5.1 The boundaries of each Unit are the interior unfinished surfaces of the perimeter walls, floor, ceiling, doors and windows of the Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the walls, floor and ceiling are part of the Unit, and all other portions of the walls, floor and ceiling are part of the Common Elements.

2.5.2 All spaces, interior partitions and other fixtures and Improvements within the boundaries of a Unit are part of the Unit.

2.5.3 In the event of any inconsistency or conflict between the provisions of this Section and the Plat, this Section shall control.

2.5.4 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.

2.5.5 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 or any successor statute.

2.6 Allocation of Common Element Interest and Common Expense Liabilities. The undivided interests in the Common Elements shall be allocated equally among the Units. Accordingly, each Unit's fraction of undivided interests in the Common Elements and in the Common Expenses shall be one-twenty sixth (1/26), unless any part of the Additional Property is annexed by the Declarant pursuant to Section 2.9 of this Declaration, any Units are subdivided, any Units are converted into Common Elements or any Common Elements are converted into Units, or any Units are withdrawn from the Condominium, in which event the undivided interests in the Common Elements and in the Common Expenses of the Association shall be reallocated so that each Unit's fraction of undivided interests in the Common Elements and in the Common Expenses shall be the fraction the numerator of which is one (1) and the denominator of which is the total number of Units then subject to this Declaration. A statement of fraction of each Unit's undivided interests shall be prepared and shall be attached to the amendment or supplemental Declaration under which Additional Property is annexed or any Units are withdrawn from the Condominium.

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

2.8 Allocation of Limited Common Elements.

2.8.1 The following portions of the Common Elements are Limited Common Elements and are allocated to the exclusive use of one Unit, the Unit to which they are attached or assigned as shown on the Plat or in which they are located or attached, and are appurtenant to that Unit, as follows:

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

(ii) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixtures (including, but not limited to, heating and air conditioning units and related equipment) lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element allocated solely to the Unit, the use of which is limited to that Unit and any portion serving more than one Unit or a portion of the Common Elements is a part of the Common Elements;

(iii) Any shutters, awnings, window boxes, doorsteps, stoops and exterior doors (including garage doors) and windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit served;

(iv) Each Unit is allocated the patio adjoining the Unit, as shown on the Plat;

(v) Each Unit is allocated the carport or garage space adjoining the Unit as shown on the plat; and

(vi) Each Unit is allocated the driveway adjoining the Unit as shown on the Plat.

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

2.8.3 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.

2.8.4 The Declarant shall have the right to allocate as a Limited Common Element any parking spaces which are part of the Common Elements and which have not

previously been allocated as a Limited Common Element. Any such allocation shall be made by an Amendment to this Declaration executed by the Declarant.

2.9 Reservation of Development Rights by, and Grant of Development Rights to, Declarant. Subject to the limitations and restrictions set forth in A.R.S. §12-1220 or any successor statute and in this Declaration, the Declarant hereby expressly reserves and is granted each of the Development Rights set forth in Section 1.2.17 of this Declaration and, upon exercise thereof, all of the reserved easements and other rights specified therein relating to the Development Right so exercised.

2.10 Conversion Disclosure. The parcel is being converted by the recording of this Plat and this Declaration from multi-family rental to condominiums. The original construction of the improvements situated on the Parcel was completed in 1983. The name and address of the original owner, builder, developer and general contractor as shown on the building permit issued by the City is as follows:

Owner: Devonshire/Phoenix Associates Limited Partnership
18201 N. 75th Street
Scottsdale, Arizona 85260

General Contractor and Builder:
Whitney Sarrell
18201 N. 75th Street
Scottsdale, Arizona 85260

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

<u>Name</u>	<u>Address</u>
MeraBank	Unknown
Arthur W. White, John S. Howell and Gerald Conijin	Unknown
David and Donna Collier and Robert and Courtney Lia	Unknown
C&L II, LLC	Unknown
Qing Cheng Bao	10405 N. 56 th Street Paradise Valley, AZ 85253
724 E Devonshire, LLC	10405 N. 56 th Street Paradise Valley, AZ 85253

The Declarant agrees to provide the following information on request: (a) the name and address of any builder, developer, general contractor, subcontractors, architects and engineers who designed or made improvements to the Parcel immediately before the first Unit was sold; and (b) a specific description of all improvements made.

ARTICLE 3 EASEMENTS

3.1 Utility Easement. 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 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, approved and constructed by the Declarant or as approved by the Board of Directors. This easement shall in no way affect any other recorded easements on the Common Elements.

3.2 Easements for Ingress and Egress. There is hereby 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 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. 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.

3.3 Unit Owners' Easements of Enjoyment.

3.3.1 Every Unit Owner shall have a right and easement of enjoyment in and to the Common Elements, 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 and regulations governing the use of the Common Elements;

(ii) 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;

(iii) All rights and easements set forth in this Declaration including, but not limited to, the rights and easements granted to the Declarant by Sections 3.4 and 3.5 of this Declaration;

(iv) The right of the Association to suspend the right of a Unit Owner and any resident of his Unit to use the Common Elements for any period during which the Unit Owner is in violation of any provision of the Condominium Documents.

3.3.2 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, and the Unit Owner shall have no right to use the Common Elements until the termination or expiration of the lease.

3.3.3 The guests and invitees of any member or other person entitled to use the Common Elements pursuant to Subsection 3.3.1 of this Declaration or of any lessee who is entitled to use the Common Elements pursuant to Subsection 3.3.2 of this Declaration may use the Common Elements provided they are accompanied by a Member, lessee or other person entitled to use the Common Elements pursuant to Subsection 3.3.1 or 3.3.2 of this Declaration. The Board of Directors shall have the right to limit the number of guests and invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by guests and invitees to certain specified times.

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

3.3.5 The provisions of this Section 3.3 shall not apply to any of the Limited Common Elements that are allocated to one or more but less than all of the Units.

3.4 Declarant's Use for Sales and Leasing Purposes.

3.4.1 Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Condominium and to maintain one or more marketing, directional or advertising signs on the Common Elements while the Declarant is selling Units in the Condominium. Declarant reserves the right to place models, management 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.

3.4.2 Declarant may from time to time relocate models, management offices and sales and leasing offices to different locations within the Condominium. Upon the relocation of a model, management office or sales and leasing office constituting a Common Element, Declarant may remove all personal property and fixtures therefrom.

3.4.3 So long as Declarant is marketing Units in the Condominium, Declarant shall have the right to restrict the use of the parking spaces which are not allocated as Limited Common Elements. Such right shall include reserving such spaces for use by prospective Unit purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

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

3.4.5 In the event of any conflict or inconsistency between this Section 3.4 and any other provision of the Condominium Documents, this Section 3.4 shall control and prevail over such other provisions.

3.5 Declarant's Rights and Easements.

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

3.5.2 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 correcting drainage of surface, roof or storm water. The easement created by this Subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

3.5.3 The Declarant shall have an easement through the units for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

3.5.4 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.

3.5.5 In the event of any conflict or inconsistency between this Section 3.5 and any other provision of the Condominium Documents, this Section 3.5 shall control and prevail over such other provisions.

3.6 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.

3.7 Easement in Favor of the Association.

3.7.1 The Common Elements shall be subject to an easement in favor of the Association 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 and for the purpose of exercising all rights of the Association and discharging all obligations of the Association.

3.7.2 Each Unit shall be subject to an easement in favor of the Association and the agents, employees and contractors of the Association for the purpose of performing such pest control activities as the Association may deem necessary to control or prevent the infestation of the Condominium by insects, rodents or other pests or to eradicate insects, rodents or other pests from the Condominium.

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

3.8.1 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.

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

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

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

3.8.5 For the performance of the Unit Owners' obligation to maintain, repair, replace and restore those portions of the Limited Common Elements that the Unit Owner is obligated to maintain under **Section 5.2** of this Declaration.

3.9 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:

3.9.1 For inspection of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible;

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

3.9.3 For correction of emergency conditions in one or more units or Limited Common Elements or casualties to the Common Elements, the Limited Common Elements or the Units.

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

3.9.5 For inspection, at reasonable times and upon reasonable notice to the Unit Owner, of the Units and the Limited Common Elements in order 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.

3.10 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, shifting or settling, or alteration or restoration authorized by this Declaration 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.

ARTICLE 4 USE AND OCCUPANCY RESTRICTIONS

4.1 Residential Use. All Units shall be used, improved and devoted exclusively to residential use. No Unit shall be occupied by more than five (5) persons at any time without the prior written consent of the Association, which may withheld in the sole discretion of the Association. No trade or business may be conducted on any Unit or in or from any Unit, except that an Owner or other resident of a Unit may conduct a business activity within a Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Condominium; (iii) the business activity does not involve persons coming to the Unit or the door-to-door solicitation of Unit Owners or other residents in the Condominium; and (iv) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other residents in the Condominium, as may be determined from time to time in the sole discretion of the Board of Directors. The terms "business" and "trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity. The leasing of a Unit by the Unit Owner thereof shall not be considered a trade or business within the meaning of this Section.

4.2 Antennas

4.2.1 Except as expressly permitted by Subsection 4.2.2 below, no antenna, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the Condominium whether attached to a Building or structure or otherwise, unless approved in writing by the Board of Directors.

4.2.2 An antenna one meter or less in diameter or diagonal measurement used for the receipt of digital programming services from a direct broadcast satellite or multi-point distribution service or an antenna designed to receive television broadcast signals, regardless of size (a "Permitted Antenna"), may be installed within a Unit without the prior written approval of

the Board of Directors provided the Permitted Antenna is installed solely within the Unit or Limited Common Element allocated to the Unit. No Permitted Antenna may be placed on or encroach on the Common Elements (other than a Common Element allocated to the Unit). If an acceptable quality signal can be received by placing the Permitted Antenna inside the Unit, without unreasonable delay or unreasonable cost increase, then the Permitted Antenna must be installed within the Unit. If an acceptable quality signal cannot be received by placing the Permitted Antenna inside the Unit or the installation of the Permitted Antenna inside the Unit would result in unreasonable delay or an unreasonable cost increase in the installation of the Permitted Antenna, then the Permitted Antenna may be installed in a Limited Common Element allocated to the Unit (not including any exterior stairway appurtenant to such Unit). If a Permitted Antenna is installed in a Limited Common Element, the Permitted Antenna must be installed in a location within the Limited Common Element that is not visible from any other Unit or any other part of the Common Elements if an acceptable quality signal can be achieved from such location. If an acceptable quality cannot be received from a location within a Limited Common Element which is not visible from any other Unit or the Common Elements, then the Permitted Antenna must be placed at the location within the Limited Common Element from which an acceptable quality signal can be obtained and which is the least visible from other Units or any other part of the Common Elements. The Board of Directors may establish additional requirements for the installation of such Permitted Antennas provided such restrictions do not violate any applicable federal, state or local law or regulation.

4.3 Utility Service. Except for lines, wires and devices existing on the Condominium as of the date of this Declaration 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 installed and maintained underground or concealed in, under or on Buildings or other structures permitted under this Declaration. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Buildings or structures permitted under this Declaration.

4.4 Improvements and Alterations. Any Unit Owner may make nonstructural additions, alterations and improvements within his Unit without the prior written approval of the Board of Directors, 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 Unit Owner 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 of Directors and an architect or engineer, licensed in Arizona, certifies that such addition, alteration or improvement will not impair the structural integrity of the Building within which such addition, alteration or improvement is to be made. The Unit Owner shall, to the extent permitted by Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a Unit or within any Limited Common Element allocated to the exclusive use of a Unit, whether structural or not, which would be visible from the exterior of the Building in which the Unit is located or from the exterior of the Limited Common Element shall be made without the prior written approval of the Board of Directors, which approval shall only be granted if the Board of Directors affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding Improvements. No Unit Owner shall make any addition, alteration or improvement to the Common Elements without the prior written approval of the Board of Directors

4.5 Trash Containers and Collection. No garbage or trash shall be placed or kept on the Condominium except in covered containers of a type, size and style which are approved by the Board of Directors. The Board of Directors shall have the right to subscribe to a trash service for the use and benefit of the Association and all Unit owners, and to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection. The Board of Directors shall have the right to require all Owners to place trash and garbage in containers located in areas designated by the Board of Directors. No incinerators shall be kept or maintained in any Unit.

4.6 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the Condominium except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of buildings, improvements or structures which are within the uses permitted by this Declaration, and except that which Declarant or the Association may require for the construction, operation and maintenance of the Common Elements.

4.7 Animals. No animals, birds, fowl, poultry or livestock shall be maintained or kept in any Units or on any other portion of the Condominium, except that no more than two Permitted Pets may be kept or maintained in a Unit if they are kept, bred or raised solely as domestic pets and not for commercial purposes. For purposes of this Section, a "Permitted Pet" shall mean a household bird or a dog or cat. No Permitted Pet shall be allowed to make an unreasonable amount of noise, cause an odor, or to become a nuisance. All dogs shall be kept on a leash when outside a Unit or any Limited Common Elements allocated to the Unit, and all dogs shall be directly under the Unit Owner's control at all times. No Unit Owner or any lessee or guest of a Unit Owner shall permit any dog being kept in the Unit or the Limited Common Elements allocated to the Unit to relieve itself on any portion of the Common Elements. Any Unit or Limited Common Element where a Permitted Pet is kept or maintained shall at all times be kept in a neat and clean condition. No structure for the care, housing, confinement, or training of any animal or pet shall be maintained on any portion of the 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 Permitted Pet is a nuisance or is making an unreasonable amount of noise or causing an odor. The Board of Directors shall have the right to adopt, amend and repeal rules and regulations governing the keeping of Permitted Pets in the Condominium, and such rules and regulations may include limitations on the height and/or weight of Permitted Pets.

4.8 Temporary Occupancy. No trailer, basement of any incomplete building, tent, shack, garage, barn or other structure, and no temporary improvement of any kind shall be used at any time as a residence either temporarily or permanently. Temporary buildings or structures used during the construction of buildings or structures approved by the Board of Directors shall be permitted but must be removed promptly upon completion of the construction of the building or structure.

4.9 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on the Condominium.

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

4.11 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 diseases or noxious insects. Each Unit Owner shall perform such pest control activities as may be necessary to prevent insects, rodents and other pests from being present in the Unit.

4.12 Trucks, Trailers, Campers and Boats. No truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, kept, maintained, constructed, reconstructed or repaired on any part of the Condominium except in the assigned garage which is appurtenant to each of the Units as a Limited Common Element.

4.13 Motor Vehicles. Except for emergency repairs, no truck, recreational vehicle, automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed, serviced or repaired on any portion of the Condominium except in the assigned garage which is appurtenant to each of the Units as a Limited Common Element, and no inoperable vehicle may be stored or parked on any portion of the Condominium except in the assigned garage which is appurtenant to each of the Units as a Limited Common Element. No truck, recreational vehicle, automobile, motorcycle, motorbike or other motor vehicle shall be parked upon any part of the Condominium except in the assigned garage which is appurtenant to each of the Units as a Limited Common Element, or in such parking spaces as may exist from time to time on the Common Elements. No automobile, motorcycle, truck, recreational vehicle, motor bike or other motor vehicle which exceeds seven feet (7') in height may be parked in the assigned garage which is appurtenant to each of the Units as a Limited Common Element or in such parking spaces as may exist from time to time on the Common Elements, and no automobile, motorcycle, truck recreational vehicle, motor bike or other motor vehicle may be parked in such a manner as to extend beyond the boundary of the assigned garage or driveway which is appurtenant to each of the Units as a Limited Common Element. In addition, no commercial motor vehicle of any kind may be parked in the assigned covered parking space which is appurtenant to each of the Units as a Limited Common Element, or in such parking spaces as may exist from time to time on the Common Elements. The Board of Directors shall have the right to establish rules and regulations defining what constitutes a commercial vehicle and to determine, in its sole discretion, whether any particular motor vehicle constitutes a motor vehicle. No Unit Owner or other resident or occupant of a Unit may park any automobile, motorcycle, truck, recreational vehicle, motor bike or other motor vehicle owned or leased by such Unit Owner, resident or occupant on any parking spaces which are part of the Common Elements (other than the assigned covered parking space which is appurtenant to each of the Units as a Limited Common Element) without the prior written approval of the Board of Directors.

4.14 Towing of Vehicles. The Board of Directors shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, or other motor 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.

4.15 Signs. Except for the Declarant's rights under Section 3.4 of this Declaration, no signs (including, but not limited to, "For Sale" or "For Rent" signs) shall be permitted on the exterior of any Unit or Building, in the interior of a Unit if the signs would be visible from the

exterior of the Building in which the Unit is located, or on any other portion of the Condominium without the prior written approval of the Board of Directors.

4.16 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.

4.17 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 or is an annoyance to any Unit Owner or other resident. 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.

4.18 Window Coverings. No reflective materials, including, but 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 of Directors. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Unit or any Limited Common Elements allocated to the Unit shall be constructed or installed without the prior written consent of the Board of Directors.

4.19 Limitation on Leasing of Units. No Unit Owner may lease less than his entire Unit. No Unit may be leased or otherwise made available for occupancy by any person other than a Unit Owner for a period of less than thirty (30) days. 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. Prior to executing a lease, a Unit Owner shall give the lessee copies of the Condominium Documents. 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 as well as any other information the Association requests regarding the lease. Each Unit Owner acknowledges and agrees, by accepting a deed to a Unit from Declarant or any successor or assign of Declarant that, notwithstanding the foregoing restrictions, prior to the sale of a Unit by Declarant to the initial Unit Owner, the Declarant shall have the right to lease or otherwise make available for occupancy any Unit owned by it upon such terms and conditions, including, without limitation, the term of such lease or occupancy, as the Declarant shall determine in its sole discretion, subject, however, to the remaining provisions of this Article 4.

4.20 Declarant Approval Required. After the expiration of the Period of Declarant Control and for so long as the Declarant owns any Unit, any action for which the consent or approval of the Board of Directors is required under this Declaration may be taken only if such action is also consented to or approved by the Declarant.

**ARTICLE 5
MAINTENANCE AND REPAIR OF
COMMON ELEMENTS AND UNITS**

5.1 Duties of the Association. The Association shall maintain, repair and replace all Common Elements and Limited Common Elements, whether located inside or outside the Units, except for the Limited Common Elements which the Unit Owners are obligated to maintain, repair and replace pursuant to Section 5.2 of this Declaration. The cost of all such maintenance, repairs and replacements shall be a Common Expense and shall be paid for by the Association. The Association shall have the right, but not the obligation, to provide security guard service for the Condominium at such times and upon such terms as are approved by the Board of Directors. Each Owner and other resident or occupant of a Unit acknowledges and agrees that any security guard service that may be provided by the Association does not guarantee the safety or security of the Owners and other occupants of the Condominium or their guests or guarantee that no unauthorized person will gain access to the Condominium.

5.2 Duties of Unit Owners. Each Unit Owner shall maintain, repair and replace, at his own expense, all portions of his Unit. In addition, each Unit Owner shall be responsible for the maintenance and repair of the Limited Common Elements allocated to his Unit pursuant to Subsections 2.8.1(i) and (ii), the exterior doors and door frames and windows allocated to the Unit as Limited Common Elements pursuant to Section 2.8.1(iii) and the frames for such windows.

5.3 Repair or Restoration Necessitated by 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, landscaping or equipment thereon which results from the negligence or willful conduct of the Unit Owner. The cost to the Association of any such repair, maintenance or replacements required by such act of a Unit Owner shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments.

5.4 Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair his Unit or any Limited Common Element which he is obligated to maintain under this Declaration and the required maintenance, repair or replacement is not performed within fifteen (15) 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 Subsection 7.2.4 of this Declaration.

**ARTICLE 6
THE ASSOCIATION; RIGHTS AND DUTIES, MEMBERSHIP**

6.1 Rights, Powers and Duties of the Association. No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as a nonprofit Arizona corporation. The Association shall be the entity through which the Unit Owners shall act. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Condominium Documents together with such rights, powers and duties as may be reasonably necessary in order 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 two-thirds (2/3) of the votes in the Association. Unless the Condominium Documents or the Condominium Act specifically requires a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board of Directors.

6.2 Directors and Officers.

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

6.2.2 Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Board of Directors which must consist of at least three 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.

6.2.3 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.

6.3 Rules. The Board of Directors, 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 of any area by any Unit Owner, by the family of such Unit Owner, or by any invitee, licensee or lessee of such Unit Owner.

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

6.5 Legal Proceedings. Except for any legal proceedings initiated to (i) enforce any use restrictions, easement rights or non-monetary obligations of Unit Owners (other than the Declarant) expressly set out in this Declaration; (ii) enforce any Association Rules; (iii) collect any unpaid Assessments levied pursuant to this Declaration; or (iv) pursue or resolve any "small claims" (i.e., matters in which the amount in controversy could not reasonably be expected to exceed \$25,000.00), the Association (or Board of Directors) shall not initiate legal proceedings or join as a plaintiff in legal proceedings (A) without the prior approval of two-thirds of the Members of the Association entitled to vote, excluding the vote of Declarant and any Unit Owner who would be a defendant in such proceedings; and (B) with respect to matters involving property or improvements to property, unless (1) such property or improvements is owned either by the Association or jointly by all members of the Association; (2) the Association has the maintenance responsibility for such property or improvements pursuant to this Declaration; or (3) the Unit Owner who owns such property or improvements consents in writing to the Association initiating or joining such legal proceeding. The costs of any legal proceedings initiated by the Association which are not included in the above exceptions shall be funded by the Association with monies that are specifically collected for that purpose and the Association

shall not borrow money, use reserve funds, or use monies collected for other specific Association obligations for such purpose. Nothing in this section shall preclude the Board of Directors from incurring expenses for legal advice in complying with statutes or regulations related to the operation of the Association or otherwise in the normal course of operating the Association when legal proceedings are not involved. Notwithstanding anything herein to the contrary, this section may not be modified or amended without the prior approval of two-thirds of the Members of the Association entitled to vote, excluding the vote of Declarant.

ARTICLE 7 ASSESSMENTS

7.1 Preparation of Budget.

7.1.1 At least sixty (60) days before the beginning of each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, 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 may be 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 Subsection 7.2.4 or 7.2.5 of this Declaration.

7.1.2 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 7.2 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 7.2 of this Declaration, and each Unit Owner shall continue to pay the Common Expense Assessment against his Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been established by the Board of Directors.

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

7.2 Common Expense Assessment.

7.2.1 For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors (except for the Common Expenses which are to be assessed against less than all of the Units pursuant to Subsections 7.2.4 and 7.2.5 of this Declaration) shall be assessed against each Unit in proportion to the

Unit's Common Expense Liability as set forth in Section 2.6 of this Declaration. The amount of the Common Expense Assessment assessed pursuant to this Subsection 7.2.1 shall be in the sole discretion of the Board of Directors. 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.

7.2.2 The Common Expense Assessments shall commence as to all Units on the first day of the month following the conveyance of the first Unit to a Purchaser. The first Common Expense Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors may require that the Common Expense Assessments or Special Assessments be paid in installments.

7.2.3 Except as otherwise expressly provided for in this Declaration, all Common Expenses including, but not limited to, Common Expenses associated with the maintenance, repair, and replacement of a Limited Common Element, shall be assessed against all of the Units in accordance with Subsection 7.2.1 of this Declaration.

7.2.4 If any Common Expense is caused by the misconduct of any Unit Owner, the Association shall assess that Common Expense exclusively against his Unit.

7.2.5 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 Liabilities.

7.2.6 The Common Expense Assessment for any Unit on which construction has not been substantially completed and the ownership thereof transferred by the Declarant to another Unit Owner shall be an amount equal to twenty-five percent (25%) of the Common Expense Assessment for Units which have been substantially completed and the ownership so transferred. So long as any Unit owned by the Declarant qualifies for the reduced Common Expense Assessment provided for in this Subsection 7.2.6, the Declarant shall be obligated to pay to the Association any deficiency in funds available to the Association as a result of the Declarant having paid a reduced Common Expense Assessment and necessary for the Association to be able to timely pay all Common Expenses.

7.2.7 All Assessments, monetary penalties and other fees and charges levied against a Unit shall be the personal obligation of the Unit Owner of the Unit at the time the Assessments, monetary penalties or other fees and charges became due. The personal obligation of a Unit Owner for Assessments, monetary penalties and other fees and charges levied against his Unit shall not pass to the Unit Owner's successors in title unless expressly assumed by them.

7.3 Special Assessments. In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, a special assessment 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 who are voting in person or by proxy at a meeting duly called for such

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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.

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 Working Capital Fund. To insure that the Association shall have adequate funds to pay the Common Expenses or to purchase necessary equipment or services, each Purchaser of a Unit from the Declarant shall pay to the Association, immediately upon becoming the Owner of the Unit, a sum equal to two (2) months' Common Expense Assessment then being paid in respect of each Unit other than Units owned by the Declarant. Such amount shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

7.10 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 Assessments.

7.11 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.

7.12 Transfer Fee. Each Person who purchases or otherwise becomes the Owner of a Unit shall pay to the Association immediately upon becoming the Owner of the Unit a transfer fee in such amount as is established from time to time by the Board of Directors to compensate the Association for the administrative cost resulting from the transfer of a Unit. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail or deliver to a purchaser under A.R.S. § 33-1260 or any successor statute and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1260 or any successor statute.

ARTICLE 8 INSURANCE

8.1 Scope of Coverage.

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

(i) Property insurance on the Common Elements and Units, exclusive of improvements and betterments installed in Units by Unit Owners, issued under a standard form "All Risk of Direct Physical Loss Form" in an amount equal to the maximum insurable replacement value of the Common Elements and Units, as determined by the Board of Directors; provided, however, that the total amount of insurance after application of any

purpose. 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.

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

7.4.1 Any Assessment, or any installment of an Assessment, which is not paid within five (5) days after the Assessment first became due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of interest established from time to time by the Board of Directors.

7.4.2 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 in order 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 a Unit or the Unit Owner which are secured by the Assessment Lien.

7.4.3 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 and such action may be brought without waiving the Assessment Lien securing any such delinquent amounts; or (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. 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 fees and charges 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 at 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 non-use 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 lien holder, 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

deductibles 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 property insurance policy.

(ii) Broad Form Comprehensive general liability insurance, for a limit to be determined by the Board of Directors, but not less than \$1,000,000.00 for any single occurrence. 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. Such policy shall include (i) a cross liability clause to cover liabilities of the Unit Owners as a group to a Unit Owner, (ii) medical payments insurance and contingent liability coverage arising out of the use of hired and non-owned automobiles, and (iii) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

(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.

(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, the members of any committee or the Board of Directors or the Unit Owners.

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

(a) 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.

(b) There shall be no subrogation with respect to the Association, its agents, servants, and employees against Unit Owners and members of their household.

(c) 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.

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

(e) 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.

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

(g) 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.

(h) Any Insurance Trust Agreement will be recognized by the insurer.

(vii) If there is a steam boiler used in connection with the Condominium, boiler explosion insurance evidenced by the standard form of boiler machinery insurance policy and providing coverage in the minimum amount of \$50,000.00 per accident per location.

(viii) 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.

(ix) "Agreed Amount" and "Inflation Guard" endorsements.

8.1.2 If, at the time of a loss insured under an insurance policy purchased by the Association, the loss is also insured under an insurance policy purchased by a Unit Owner, the Association's policy shall provide primary coverage.

8.2 Fidelity Bonds.

8.2.1 The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association including, but without limitation, officers, directors and employees of any management agent of the Association, whether or not they receive compensation for their services. The total amount of the fidelity bonds maintained by the Association shall be based upon the best business judgment of the Board of Directors and shall not be less than the greater of the estimated maximum funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond, or the sum equal to three months aggregate Common Expense Assessments on all Units plus reserve funds. Fidelity bonds obtained by the Association must also meet the following requirements:

(i) The fidelity bonds shall name the Association as an obligee;

(ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions;

(iii) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation from nonpayment of premium) without at least ten (10) days prior written notice to the Association and each First Mortgagee.

8.2.2 The Association shall require any management agent of the Association to maintain its own fidelity bond in an amount equal to or greater than the amount of the fidelity bond to be maintained by the Association pursuant to **Subsection 8.2.1** of this Declaration. The fidelity bond maintained by the management agent shall cover funds maintained in bank accounts of the management agent and need not name the Association as an obligee.

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

8.4 Insurance Obtained by Unit Owners. The issuance of insurance policies to the Association pursuant to this Article 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.

8.5 Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article 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 lien holder its their interests may appear, and the proceeds shall be disbursed and applied as provided for in A.R.S. § 33-1253 or any successor statute.

8.6 Certificate of Insurance. An insurer that has issued an insurance policy pursuant to this Article 8 shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner, mortgagee, or beneficiary under at 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 non-renewal 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 addresses.

ARTICLE 9 RIGHTS OF FIRST MORTGAGEES

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

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

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

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

9.1.4 Any proposed action which requires the consent of a specified percentage of Eligible Mortgage Holders as set forth in Section 9.2 of this Declaration.

9.2 Approval Required for Amendment to Declaration, Articles or Bylaws.

9.2.1 The approval 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 Declaration, Articles or Bylaws 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 or
annexation of property to the 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 restrictions on a Unit Owner's right to sell or
transfer his Unit;
- (xii) A decision by the Association to establish self management when
professional management had been required previously by an Eligible Mortgage Holder;
- (xiii) Restoration or repair of the Condominium (after a hazard damage
or partial condemnation) in a manner other than that specified in the Condominium Documents;
- (xiv) Any action to terminate the legal status of the Condominium after
substantial destruction or condemnation occurs;
- (xv) Any provisions which expressly benefit First Mortgagees, Eligible
Mortgage Holders or Eligible Insurers or Guarantors.

9.2.2 Any action to terminate the legal status of the Condominium for reasons other than substantial destruction or condemnation of the Condominium must be approved by Eligible Mortgage Holders holding 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.

9.2.3 Any First Mortgagee who receives a written request to approve additions or amendments to the Declaration, Articles or Bylaws, 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 Declaration, Articles or Bylaws shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

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

9.3 Prohibition Against Right of First Refusal. The rights 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.

9.4 Right of Inspection of Records. Any Unit Owner, First Mortgagee or Eligible Insurer Or Guarantor will, 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.

9.5 Prior Written Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the Units or the Common Elements, unless at least two-thirds (2/3) of all First Mortgagees (based upon one vote for each First Mortgage owned) or Unit Owners (other than the Declarant or other sponsor, developer or builder of the Condominium) of the Units have given their prior written approval, the Association shall not be entitled to:

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

9.5.2 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;

9.5.3 Partition or subdivide any Unit;

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

9.5.5 Use Hazard insurance proceeds for losses to any Units or the Common Elements for any purpose other than the repair, replacement or reconstruction of such Units or the Common Elements.

Nothing contained in this Section or any other provisions of this Declaration shall be deemed to grant the Association the right to partition any Unit without the consent of the Unit 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 provided under Arizona law.

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

9.7 Condemnation or Insurance Proceeds. No Unit Owner, or any other party, shall have priority over any rights of any First Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

9.8 Limitation on Partition and Subdivision. No Unit shall be partitioned or subdivided without the prior written approval of the Holder of any First Mortgage on such Unit.

9.9 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article and any other provision of the Condominium Documents, the provisions of this Article shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this Article or between the provisions of this Article 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 of the Declaration, Articles or Bylaws, (ii) a termination of the Condominium, or (iii) certain actions of the Association as specified in Sections 9.1 and 9.5 of this Declaration, the provision requiring the consent of the greatest number or percentage of Unit Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers Or Guarantors shall prevail; provided, however, that the Declarant, without the consent of any Unit Owner being required, shall have the right to amend this Declaration, the Articles or the Bylaws during the Period of Declarant Control as provided in Subsection 10.5.4 of this Declaration.

ARTICLE 10 GENERAL PROVISIONS

10.1 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 and 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.

10.2 Severability. Invalidation of anyone 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.

10.3 Duration. The covenants and restrictions of this Declaration, as amended from time to time, 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.

10.4 Termination of Condominium. The Condominium may be terminated only in the manner provided for in the Condominium Act.

10.5 Amendment.

10.5.1 Except in cases of amendments that may be executed by a Declarant in the exercise of its Development Rights or under Section 33-1220 of the Condominium Act, by the Association under Section 33-1206 or 33-1216(D) of the Condominium Act, or by certain Unit Owners under Section 33.1218(B), Section 33-1222, Section 33-1223 or Section 33-1228(B) of the Condominium Act, or, in each case, under any successor statute, the Declaration, including the Plat, may be amended only by a vote of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

10.5.2 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.

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

10.5.4 During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, as well as the Articles and the Bylaws, without the consent of any Unit Owner being required, to (i) comply with the Condominium Act or any other applicable law if the amendment does not materially and adversely affect the rights of any Unit Owner, (ii) correct any error or inconsistency in the Declaration, the Articles or the Bylaws if the amendment does not materially and adversely affect the rights of any Unit Owner, or (iii) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including without limitation, the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, as provided in Section 1.2.18 hereof.

10.5.5 Any amendment adopted by the Unit Owners pursuant to Subsection 10.5.1 of this Declaration shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of each County in which any portion of the Condominium is located. 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 10.5.4 of this Declaration or the Condominium Act shall be executed by the Declarant and shall be recorded with the County Recorder of each County in which any portion of the Condominium is located.

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

10.7 Notices. All notices, demands, statements or other communications required to be given to or served on a Unit Owner 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 mail, postage prepaid, return receipt requested, addressed to the Unit Owner, at the address 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. 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.

10.8 Binding Effect. By acceptance of a deed or by acquiring any ownership interest in any portion of the Condominium, each Person, for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, 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, 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.

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

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

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

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

10.13 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.

10.14 Guests and Tenants. Each Unit Owner shall 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 insure 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.

10.15 Attorneys' Fees. In the event the Declarant, the Association or any Unit Owner employs an attorney or attorneys to enforce a 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 incurred in the action.

10.16 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 next day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

10.17 Declarant's Right to Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other nonprofit corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

10.18 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 does not exist or that the actual 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.

10.19 Disclaimer. Notwithstanding anything herein to the contrary, the Declarant makes no representation or warranty whatsoever that (i) the Condominium will be completed or maintained in accordance with any particular plans, including plans for the Condominium as they exist as of the date hereof; (ii) any portion of the Condominium will be developed or used for a particular use or for any use; (iii) the use of any portion of the Condominium will not be changed in the future; (iv) any real property now owned or hereafter acquired by Declarant is or will be subjected to this Declaration; or (v) any or all of the restrictive covenants contained herein are or in the future will be deemed to be valid or enforceable.

10.20 Alternative Dispute Resolution. Except for any legal proceedings initiated to (i) enforce any use restrictions, easement rights or non-monetary obligations of Unit Owners (other than the Declarant) expressly set out in this Declaration; (ii) enforce any Association Rules; (iii) collect any unpaid Assessments levied pursuant to this Declaration; or (iv) pursue or resolve any "small claims" (i.e., matters in which the amount in controversy could not reasonably be expected to exceed \$25,000.00), any dispute or claim (a "Dispute") under or pertaining to this Declaration or any provision hereof between or among (1) any Unit Owner(s) and any other Unit Owner(s), (2) any Unit Owner(s) and the Association, or (3) the Declarant (or its brokers, agents, consultants, contractors, subcontractors or employees) and any Unit Owner(s) or the Association, shall be subject to the negotiation, mediation and arbitration provisions contained herein.

10.20.1 Each party to a Dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving the Dispute by good faith negotiation before resorting to any legal proceedings or any other dispute resolution procedure. Upon receipt of a written request from any party to the Dispute, the Board of Directors may appoint a representative to assist the parties in resolving the Dispute by negotiation.

10.20.2 If the Dispute cannot be settled through negotiation, the parties to the Dispute shall make every reasonable effort to settle the Dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules (or if such procedure is unavailable, by such other comparable entity or comparable rules as the parties to the Dispute may in good faith agree upon) before resorting to any legal proceedings or any other dispute resolution procedure.

10.20.3 If a Dispute cannot be settled through mediation, the Dispute shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. If any party to the Dispute does not submit the Dispute to arbitration within thirty (30) days after termination of the mediation proceedings, such party shall be deemed to have waived any claims under the Dispute and all of the other parties to the Dispute shall be released and discharged from any and all liability to such party on account of such Dispute; provided, however, nothing herein shall release or discharge such party or parties from any liability to persons or entities not a party to the foregoing proceedings. The parties to a Dispute shall cooperate in good faith to assure that all necessary and appropriate persons and entities are included in the arbitration proceeding. No party shall be required to participate in the arbitration proceeding if all persons and entities against whom the party would have necessary or permissive cross-claims, counterclaims or third-party claims are not or cannot be joined in the arbitration proceeding.

DEVONSHIRE PLACE CONDOMINIUMS, L.L.C.,
an Arizona limited liability company

By: [Signature]
Its: Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 3rd day of May, 2006, by Robert A. Campbell the Manager of DEVONSHIRE PLACE CONDOMINIUMS L.L.C., an Arizona limited liability company, for and on behalf thereof.

[Signature]
Notary Public

My Commission Expires:
12/1/07

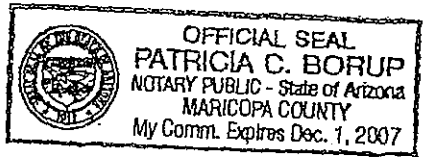


EXHIBIT A

LEGAL DESCRIPTION OF REAL
PROPERTY SUBJECTED TO THIS DECLARATION

That portion of the Southwest quarter of Section 21, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly as follows:

Beginning at a point, 944 feet North of the Southwest corner of Section 21;

Thence North, a distance of 221.40 feet;

Thence East, a distance of 459.10 feet to the West line of Lot 10, of LOS INDIOS, according to Book 8 of Maps, Page 20, records of Maricopa County, Arizona;

Thence South, a distance of 221.40 feet;

Thence West, a distance of 459.10 feet to the POINT OF BEGINNING;

Except the West 233 feet thereof.