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AMERICAN TITLE

DECLARATION SUBMITTING PROPERTY TO HORIZONTAL PROPERTY REGIME, TOGETHER WITH COVENANTS, CONDITIONS AND RESTRICTIONS FOR TWELVE PALMS

PROP RSTR (PR)

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KNOW ALL MEN BY THESE PRESENTS:

THAT, TED BASS JONES CONSTRUCTION CO., an Arizona corporation, hereinafter referred to as "Declarant", being the owner of the following described property situated in Maricopa County, Arizona, to-wit:

The East 145 ft. of the South 330.00 Ft. of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of the Northeast 1/4 of SECTION 9, TOWNSHIP 2 NORTH, RANGE 3 EAST, G. & S.R.B. & M., Maricopa County, Arizona. EXCEPT the South 33.00 feet thereof.

does hereby submit the above described land, including the improvements constructed thereon, or hereafter constructed thereon, and all easements, rights and appurtenances belonging thereto, subject to all matters of records, which may hereinafter be collectively referred to as the "Property", or "Condominium Property", to a Horizontal Property Regime pursuant to Chapter 4.1, Arizona 1, Sections 33-551 to 33-561, inclusive, Arizona Revised Statutes (said Property being further described on the plat recorded in the office of the County Recorder of Maricopa County, Arizona, in Book 252 of Maps at page 15 thereof, a copy of which plat is attached hereto marked Exhibit A, and Declarant does further hereby declare that all of the Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved, subject to the following covenants, conditions and restrictions, all of which are declared to be in furtherance of a plan for the improvement, development and sale of the Property and are established for the purpose of enhancing and perfecting the value and desirability of the Property and every part thereof. All of such covenants, conditions and restrictions shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any part thereof and shall be for the benefit of each owner of any portion of the Property and for the benefit of any person having any interest whatsoever in the Property or the improvements thereon, or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest.

1. NAME. The name of this Horizontal Property Regime shall be TWELVE PALMS.

2. DEFINITIONS. The terms defined in this paragraph of this Declaration have the meanings herein specified, except as may be expressly otherwise provided herein.

A. "Act" means Section 33-551 through Section 33-561, Arizona Revised Statutes, as amended.

B. "Apartment" shall mean and refer to one or more rooms (excluding any patios or other areas, if any, appurtenant or associated with each Apartment) designated by one of the numbers 1 through 12, 14 and 15. Each Apartment is composed of and shall include the space enclosed and bounded by the interior finished surfaces of the floor, ceiling and perimeter walls thereof, all as shown on the Plat; provided, however, no structural parts of the Building in which each Apartment is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within an Apartment and forming part of any system serving one or more other Apartments or the Common Elements shall be deemed to be part of an Apartment.

C. "Apartment Unit" shall mean and refer to an Apartment, together with a Patio and Storage Room.

D. "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of TWELVE PALMS Association, Inc., as same may be amended from time to time.

E. "Association" shall mean and refer to TWELVE PALMS Association, Inc., which will be a nonprofit corporation whose membership will be comprised of the Owners of all of the Units.

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F. "Board of Directors" or "Board" shall have the meaning provided by subparagraph 8(B) hereof.

G. "Building" shall mean and refer to the principal structure shown on the Plat and erected upon the land described on page 1 of this Declaration. The Building is more particularly described in subparagraph 3(B) below.

H. "By-laws" shall mean and refer to the By-Laws of the Association as same may be amended from time to time.

I. "Common Expenses" shall have the meaning provided by subparagraph 9(A) hereof.

J. "Declarant" shall refer to TED BASS JONES CONSTRUCTION CO., an Arizona corporation, its successors and assigns, should such successors or assigns acquire one or more Units for purposes of development, and the instrument of transfer expressly states the rights of Declarant are being transferred.

K. "Declaration" means this instrument by which the Property is submitted to a Horizontal Property Regime, as such Declaration may from time to time be amended.

L. "General Common Elements" or "Common Elements" shall have the meaning provided by subparagraph 3(D) hereof. Without in any way limiting the foregoing, the Common Elements are composed of and shall include Tract A shown on the Plat, the land, all foundations, floors, exterior walls, ceilings, ducts and roofs of the Buildings, walkways, fences, walls, landscaping, parking areas and all other facilities, equipment, structures, and air space not shown and described on the Plat as part of an Apartment Unit.

M. "Majority" or "Majority of Owners" shall mean the Owners of more than fifty percent (50%) of the undivided ownership of the Common Elements then entitled to vote. Any specified fractional or percentage of the Owners means that fractional or percentage of undivided ownership of said Common Elements.

N. "Owner" or "Co-Owner" or "Owners" or "Co-Owners" shall mean the person or persons whose estates or interests individually or collectively aggregate fee simple ownership of a Unit, and the person or persons who are purchasers under a valid and outstanding recorded agreement of sale with respect to a Unit, but shall not include a person whose interest is limited to security for a loan unless the context otherwise requires.

O. "Occupant" means a person or persons, including an Owner if the context so requires, in possession of an Apartment Unit.

P. "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Q. "Plat" means the plat of survey of the Property and of all Units submitted to this Horizontal Property Regime, which said Plat is recorded in Book _____ of Maps, at page _____ of the official records of the County Recorder of Maricopa County, Arizona. This Plat as may be amended from time to time is hereby made a part hereof as Exhibit "A" with the same force and effect as if it were incorporated herein at length.

R. "Unit" means an Apartment Unit, and all rights, easements and uses associated with and appurtenant to such Apartment Unit, together with an undivided one fourteenth interest in and to the General Common Elements, which General Common Elements are more particularly described in paragraph 3 below. Each Unit shall be known and described by the number designating the Apartment which is a part of that Unit.

3. HORIZONTAL PROPERTY REGIME. The entire Horizontal Property Regime is composed of fourteen Units numbered 1 through 12, 14 and 15. The following provisions are made in compliance with Section 33-553, Arizona Revised Statutes.

A. Description of Land. The land is described on page 1 of this Declaration.

B. Description of Cubic Content Space of Building. The cubic content space of each Building with reference to its location on the land may be determined from the Plat. The vertical boundaries of each Building shall be the exterior of the outside walls of that Building, except that where the Patios extend beyond the exterior of the outside walls, the boundaries of that Building shall be the plane of the outer edge of the walls or the plane of the boundary lines shown on the Plat for said Patios which extend outward farthest from the exterior wall of that Building, all as shown on the Plat. The upper boundaries of each Building shall be the plane of the top elevation of that Building, except that where the Patios extend beyond the exterior of the outside wall, the upper boundaries of each with respect to the Patios portion of that Building shall be the plane of the top elevation (or roof) of same, respectively, all as shown on the plat. The lower boundaries of each Building shall be the plane of the floor subbase elevation of that Building, except that where there are Patios the lower boundaries with respect to the Patios portion of that Building shall be the base elevation of said Patios all as shown on the Plat.

C. Description of Cubic Content Space of Each Apartment Unit. The cubic content space of each Apartment Unit, including the Apartment and Patio, making up the Apartment Unit, shall consist of and be measured by the entire space between the Apartment Unit's horizontal and vertical interior boundaries shown on the plat.

D. Description of Common Elements. The description of the Common Elements is the description provided for in subparagraph 3(B) above, together with the description of the land provided for on page 1 hereof, less the description provided for in subparagraph 3(C) above, and also as that term is defined in the Arizona Revised Statutes.

E. Interest Which Each Apartment Bears to the Entire Regime. The fractional interest which each Apartment bears to the entire Horizontal Property Regime is one fourteenth.

F. Exclusive Use. The Owner of each Apartment Unit shall have the exclusive use of an area within the Common Elements of a size and location adequate to install, operate and maintain refrigeration and heating units, said areas to be as presently installed or as subsequently approved by the Declarant or the Board. Further, each Apartment Unit shall have the exclusive use of an area within the Common Elements of a size and location adequate to install, operate and maintain utility meters. Further, each Apartment Unit shall have the exclusive use of one designated parking spaces within the Common Elements as shown on the Plat.

4. CONSENT TO RESTRICTIONS, COVENANTS AND CONDITIONS. Each and every Owner of a Unit described herein, by the acceptance of a deed therefor, whether from Declarant or from any subsequent Owners of said Units, or by the signing of contracts or agreements to purchase the same, and all others who at any time shall obtain any interest in the Property or a part thereof, shall thereby consent, agree and affirm all of the restrictions, covenants and conditions hereof and shall thereby agree to be bound by, keep and perform the same in strict compliance with this instrument and the Articles of Incorporation and By-Laws, and such rules and regulations (consistent with this Declaration) as may be adopted from time to time by the Association acting through the Board.

5. USE AND OCCUPANCY RESTRICTIONS. The use and occupancy of the Condominium Property shall be in conformity with all applicable laws, ordinances, rules and regulations of all applicable governmental authorities, and, further, shall be subject to the following provisions:

A. Occupancy. No part of the Property shall be used for other than residential housing and related purposes for which the Property was designed, except that Declarant reserves the right to maintain sales offices, model Apartment Units, and signs on the Property, together with the rights of ingress and egress therefrom, until all Units shall have been sold and conveyed by Declarant. No ownership of the Apartment Unit and Unit to which such right, easement or use is appurtenant, nor may any Apartment Unit be divided, subdivided or combined into a smaller or larger

Apartment Unit than as shown on the Plat without first amending this Declaration and the Plat.

B. Common Elements. Except for the rights of exclusive use set forth in this Declaration, and subject to the terms hereof and the limitations and rules as established and determined by the Association, each Owner shall have the right to use the Common Elements in common with all other Owners.

C. Nuisances. No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Property by the Occupants. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No Owner of a Unit shall permit or suffer anything to be done or kept upon his Apartment Unit or make any use of his Apartment Unit which will increase the rate or cause cancellation of insurance upon the Condominium Property or any part thereof.

D. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property nor any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Condominium Property shall be the same (either the responsibility of the Apartment Unit Owner or of the Association) as the responsibility for the maintenance and repair of the particular part of the property affected.

E. Leasing. Subject to the provisions of this Declaration, only entire Units may be rented, provided the occupancy is only by the lessee and his or her family, or servants and guests.

F. Pets. Only customarily accepted household pets may be kept on the Property, and then only in such numbers and in accordance with such rules and regulations as the Board may promulgate, provided that no animal shall be kept, bred or maintained for any commercial purpose.

G. Signs. No advertising or other signs (except one "For Rent" or "For Sale" sign per Apartment Unit of not more than five square feet, the location of which must be approved by the Board), and no billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Property, nor shall the Property or any part thereof be used in any way or for any purpose which may endanger the health or unreasonably disturb the Occupants of any Apartment Unit. No business activities of any kind whatsoever shall be conducted in any Apartment Unit or on any portion of the Property; provided, however, the foregoing restrictions shall not apply to the business activities, signs and billboards, or to any construction and maintenance buildings of Declarant or its agents, subcontractors, employees or assigns during the sale period.

H. Planting, Fences, Walls, Etc. No Fences, hedges, walls, or landscaping shall be erected or maintained upon the Condominium Property or any part thereof except such as are initially installed by Declarant, or which may from time to time be approved by the Board. No Patio fences may be extended without first obtaining written approval by the City of Phoenix. No laundry, towels, clothes or other such items or objects shall be hung or draped on or about any Patios or otherwise outside any Apartment except as may be expressly allowed by the regulations of the Association.

I. Vehicles, Etc. Except as permitted by the Association, no boats, campers, or other vehicles, other than motorcycles and passenger automobiles, shall be parked or stored in any portion of an Apartment Unit or upon the Common Elements. No vehicle shall be repaired or rebuilt in any portion of an Apartment Unit or upon the Common Elements without written consent of the Board.

J. Declarant Exempt. Until Declarant has sold all of the Units, neither the Owners nor the Association, nor the use of the Condominium Property shall interfere with the sale of the Units. Declarant may make such use of the unsold Apartment Units and the Common Elements as may facilitate such completion and sale, including, but not limited to, maintaining a sales office, showing the Property, remodeling or improving the Property and displaying signs.

K. Common Walls. Any wall which separates one Apartment Unit from another Apartment Unit shall not be used for the purpose of attaching anything to said wall which produces noise or sound in any way whatsoever, nor shall any of said walls

be penetrated by nails, screws, or other objects in excess of two (2) inches from the exterior of said wall.

L. Rules and Regulations. Reasonable rules and regulations not in conflict with this Declaration concerning the use of the Condominium Property and all portions thereof and imposing reasonable restrictions upon the Owners and the use and decoration of the Apartment Units may be made and amended from time to time by the Board; provided, however, that all such rules and regulations and amendments thereto shall be approved by not less than the Majority of Owners before such shall become effective. Notwithstanding the foregoing, until all the units are sold by Declarant, as evidenced by deeds (or recorded Agreement of Sale) delivered to purchasers, the Declarant or Board (without any additional approval of the members of the Association) shall be authorized to promulgate the rules and regulations referred to above, not in conflict with this Declaration. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

6. EASEMENTS.

A. Easements.

(1) There is hereby created a blanket easement upon, across, over and under Tract A including the right to use existing roadways for ingress, egress, emergency vehicle traffic, garbage disposal and pick-up, construction, installation, replacement, repair, maintenance and operation of all utilities, including but not limited to water, sewers, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the providing telephone, gas and/or electrical company to erect, replace and maintain necessary equipment on said property and to bury underground conduits, wires, buried cable system, and gas lines together with all the necessary appurtenances. This easement shall in no way affect any other recorded easement on said premises. Said easement shall not limit construction of buildings or other improvements as may be proposed by the developer.

(2) The Association is authorized and empowered to grant such licenses, easements and rights of way for sewer lines, water lines, underground conduits, storm drains and other public utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Elements or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Unit resulting from such grant shall be repaired by the Association at its expense.

B. Easements Resulting from Encroachment. Each Apartment Unit and the Common Elements shall be subject to an easement for encroachments, including, but not limited to, encroachments of walls, ceilings, ledges, floors, and roofs created by construction, settling or overhangs as originally designed or constructed, or created by discrepancies between the Plat and the actual construction. If any portion of the Common Elements shall actually encroach upon any Apartment Unit or if any Apartment Unit shall actually encroach upon any portion of the Common Elements, or if any Apartment Unit shall actually encroach upon another Apartment Unit, as the Common Elements and the Apartment Units are shown by the Plat, a valid easement for any of said encroachments and for the maintenance thereof, so long as they stand, shall and does exist. In the event that any Apartment Unit or structure is repaired, altered or reconstructed, the Owners of the Units agree that similar encroachments shall be permitted and that a valid easement for said encroachments and for the maintenance thereof shall exist. Owners and any other parties acquiring any interest in the Property shall acquiesce and agree to the existence of such easements by accepting a deed from any seller or by acquiring any interest whatsoever in the Property.

7. MAINTENANCE, REPAIRS AND REPLACEMENTS: ALTERATIONS, ADDITIONS AND IMPROVEMENTS. Responsibility for the maintenance of the

Condominium Property and restrictions upon the alteration and improvement thereof shall be as follows:

A. Maintenance, Repairs and Replacements.

(1) In Connection with Apartment Units.

(a) By the Association: The Association shall maintain, repair and replace, at the Association's expense:

(i) All items within an Apartment Unit (Except interior surfaces) which contribute to the support of a Building, which shall include, but shall not be limited to, the outside walls of the structures, floor and ceiling slabs, load bearing columns, load bearing walls, and all fixtures (except air conditioning and heating equipment) on the exterior boundary walls of Apartment Units which serve the Common Elements or other Apartment Units.

(ii) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of an Apartment Unit maintained by the Association, and all facilities contained within an Apartment Unit which service part or parts of the Condominium Property other than the Apartment Unit within which such facilities are contained.

(iii) Notwithstanding the foregoing, the Association shall have authority to require Apartment Unit Owners: (1) to maintain, repair and replace all damages to windows and sliding glass doors except in the case of damage for which insurance proceeds are paid under policies purchased by the Association; and (2) to undertake any other maintenance, repair and replacement work covered by rules and regulations which may be promulgated pursuant to subparagraph 5(L) above.

(b) By the Apartment Unit Owner: The responsibility of the Apartment Unit Owner shall be as follows:

(i) To maintain, repair and replace at his expense all portions of his Apartment Unit except the portions to be maintained, repaired and replaced by the Association. Such work shall be done without disturbing the rights of other Apartment Unit Owners.

(ii) The portions of an Apartment Unit to be maintained, repaired and replaced by the Apartment Unit Owner at his or her expense shall include, but not be limited to, the following items: air conditioning and heating equipment; service equipment such as dishwasher, refrigerator, oven, range, water heater, whether or not such items are built-in fixtures; floor coverings except the floor slab; all interior surfaces of the Apartment, including, but not limited to, inside paint and other inside wall finishes (see subparagraph 7(C) for additional provisions relating to decorating). Except for the original installation as of the date of this Declaration, the type and method of installation of air conditioning and heating units must first be approved by the Declarant or the Board.

(2) In Connection with the Common elements. Maintenance, repairs and replacement of the Common Elements shall be furnished by the Association as part of the Common Expenses, subject to the provisions of this Declaration, the Articles of Incorporation, the By-Laws and the rules and regulations of the Association.

(3) Additional Provisions.

(a) If, due to the act or neglect of an Owner or a member of his family or allowed household pet or guest or other Occupant, or visitor or invitee of such Owner or Occupant, damage shall be caused to the Common Elements or to an Apartment Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Owner shall pay for such damage and for such maintenance, repairs and replacements as may be

determined by the Board, to the extent not covered by the Association's insurance.

(b) No Owner shall paint or otherwise decorate or change the appearance of any portion of the exterior of any Building without the prior written approval of the Board. Landscaping, planting and decorating of Patios shall be the responsibility of the Owner thereof.

(c) Each Owner shall promptly report to the Association any defect or need for repairs, the responsibility for remedying of which is that of the Association.

(d) An authorized representative of the Board, or of the manager or managing agent of the Property, and all contractors and repairmen employed or engaged by the Board or such manager or managing agent, shall be entitled to reasonable access to each of the Apartment Units as may be required in connection with Common Elements or any equipment, facilities or fixtures affecting or serving other Apartment Units and the Common Elements.

B. Alterations, Additions and Improvements. Except for original construction work undertaken by Declarant with respect to any Apartment Unit or the Common Elements, there shall be no major structural alterations, additions or improvements to the Common Elements without the prior approval of the Majority of the Owners given at a regular or special meeting of members of the Association and the prior approval of the holders of all first mortgages and the trustees and beneficiaries under all first deeds of trust then encumbering Units. Unless otherwise determined at any such meeting, the cost of such alterations, additions or improvements to the Common Elements shall be paid by means of a special assessment against the Owners in the proportion of their respective, undivided fractional interest in and to the Common Elements. Subject to the terms hereof, any Owner may make nonstructural additions, alterations and improvements within his Apartment Unit without the prior written approval of the Board, but such Owner shall be responsible for any damage to other Apartment Units, the Common Elements or the Condominium Property, which results from any such alterations, additions or improvements. Owners are hereby prohibited from making any structural additions, alterations, or improvements within an Apartment Unit, unless 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, and further, such addition, alteration or improvement must also be approved by the Board. The Owner shall be responsible for any damage to other Apartment Units, the Common Elements or the Condominium Property which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within an Apartment Unit, whether structural or not, shall be made without the prior written approval of the Board, if said addition, alteration or Property or from the surrounding neighborhood, and prior to granting such approval, the Board must affirmatively find that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding improvements and the Buildings located upon the Condominium Property.

C. Decorating. Each Owner, at his own expense, shall furnish and be responsible for all of the decorating within his own Apartment Unit from time to time, including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furniture and interior decorating; provided, however, no decor such as reflective materials which can be seen from the outside of the Building shall be installed or maintained without the approval of the Board. Subject to the provisions of this Declaration, each Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings within his Apartment Unit. Each Owner shall maintain the interior surfaces of his Apartment in good condition at his sole expense as may be required from time to time, which said maintenance and use shall be subject to the rules and regulations of the Association and each such Owner shall have the right to decorate such surfaces from time to time as he may see fit and at this sole expense. Any redecorating of Apartment Units to the extent made necessary by any damage to existing decorating of such Apartment Units caused by maintenance, repair or replacement work on the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses. The interior and exterior surfaces of all windows and glass doors (if any) forming part of a perimeter wall of an Apartment shall be cleaned or washed at the expense of each Apartment Unit Owner unless the Board determines otherwise.

8. ASSOCIATION. The operation of the Condominium shall be by TWELVE PALMS Association, Inc., a corporation not for profit under the laws of the State of Arizona, which shall fulfill its functions pursuant to the provisions of this Declaration, the Articles of Incorporation, and By-Laws.

A. Definition, Powers, Membership. The Association shall constitute the "council of co-owners" as that term is defined in Section 33-551, Arizona Revised Statutes, and shall serve as a governing body for all of the Owners for the maintenance, repair, replacement, administration and operation of the Property, the assessment of expenses, payment of losses, disposition of hazard insurance proceeds, and other matters as provided in the Act, in this Declaration, in the Articles of Incorporation, and By-Laws. Further, the Association and its Board of Directors shall have all powers, rights, duties, and obligations as set forth in the Act, the Declaration, the Articles of Incorporation and the By-Laws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of the Declaration, the Articles of Incorporation, and the By-Laws. Each Unit Owner shall be a member of the Association so long as he shall be an Owner and such membership shall automatically terminate when he ceases to be an Owner and upon the transfer of his ownership interest the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. The aggregate number of votes for all members of the Association shall be fourteen (14) and the members of the Association shall be entitled to cast one vote for each Unit owned. If a Unit is owned by more than one Owner, the voting Owner shall be established as set forth in the By-Laws of the Association.

B. Board of Directors of Association. The affairs of the Association shall be conducted by a Board of Directors who shall be selected in the manner herein stated and as stated in the Articles of Incorporation and By-Laws. Up to the 1st day of May 1984, or on the date that all of the Units have been conveyed by Declarant to ultimate purchasers thereof as evidenced by recorded deeds (or recorded Agreement of Sale), whichever date is first in time, all members of the Board may be designated by Declarant unless Declarant relinquishes said right prior to such date. Until the first meeting of the Members of the Association, Declarant shall have all rights, remedies and privileges accorded hereunder to the Association and its Board as set forth in subparagraph 19(A) below. Notwithstanding the foregoing, Declarant may, prior to the time set forth above, elect to relinquish and/or delegate all or part of such rights and authority to the Association, which Declarant shall have the right to do by written notice delivered to the Board at any time. Except for members designated by Declarant, each director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership or trust, a director may be an officer, director, partner or beneficiary of such Owner). If a director shall cease to meet such qualifications during his term, he will thereupon cease to be a director and his place on the Board shall be deemed vacant.

C. Indemnification. Every director and every officer of the Association shall be indemnified by the Association, as the case may be, against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the Association, or any settlement thereof, provided that the Board of Directors of the Association shall determine, in good faith, that such officer or director did not act, failed to act, or refused to act willfully or with gross negligence or fraudulent or with criminal intent in the performance of his duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such directors or officers may be entitled.

D. Limitation Upon Liability of Association. Notwithstanding any duty of the Association to maintain and repair parts of the condominium Property, neither the Association, nor any member thereof, nor any member of the Board, nor any agent nor any officer of the Association shall be liable for injuries or damages to persons or property resulting in any manner from the breach of such duties (except as may be covered by insurance).

E. Board's Determination Binding. In the event of any dispute or disagreement between any Owners relating to the Property, or any question of interpretation or application of the provisions of this Declaration or the Articles of Incorporation or the By-Laws, the determination thereof by the Board shall be final and binding on each and all of such Owners. If a decision cannot be reached by the Board in connection with any matter submitted to or considered by the Board, said

matter shall be determined by the members of the Association or by arbitration as more fully set forth in subparagraph 8(F) below.

F. Action by Owners. To the extent required by the Act, or by this Declaration, all action required to be taken by the Owners, acting as a council of co-owners for the Property, shall be taken by the members of the Association acting as such council of co-owners. Any dispute as to any action or decision required to be taken or made by the Owners shall be submitted and settled in accordance with the rules and regulations then in force by the American Arbitration Association in Maricopa County, Arizona, and any decision made or rendered thereby shall be final and binding upon all of the Owners and the council of co-owners.

9. ASSESSMENTS. In accordance with and subject to this Declaration, the Articles, By-Laws, and rules and regulations of the Association, the Association shall levy, make and collect assessments against the Unit Owners so as to provide for the payment of the Common Expenses.

A. Common Expenses. The total amount to be assessed shall be the total of the Common Expenses which shall include:

(1) All Expenses of administration of the Condominium Property (including, but not limited to, legal, accounting and management fees); water and all other utility service of the Common Elements; insurance required hereunder and otherwise as determined by the Board; costs of maintenance, operation, repair, replacement and betterment of the Common Elements and other portions of the Property for which the Association is responsible (including, but not limited to, painting, landscaping, repairs, replacements, alterations, additions, reconstruction, services, supplies, labor, materials, equipment and other related items); and any valid charge against the Condominium Property as a whole as determined by the Board of Directors (including, but not limited to, all costs of enforcing compliance with this Declaration, deficiencies due to non-payment by Unit Owners, and such costs as are deemed necessary to meet the purposes of the Association).

(2) Amount sufficient and adequate to establish and maintain a reserve fund, which reserve fund shall be adequate to meet the costs and expenses of maintenance, repairs and replacements of those Common Elements which must be maintained, repaired and replaced on a periodic basis. The reserve fund shall be funded and derived from regular assessments, payable in regular installments, and not by means of a special assessment or levy.

B. Amount of Assessment. Each Unit and the Owner thereof, subject to the terms hereof, shall be assessed an amount of the Common Expense equal to that Unit's fractional ownership interest in the Common Elements. In addition thereto, and by means of a special assessment:

(1) If a Unit Owner fails to perform maintenance, repairs, and replacements which are his obligation, then, after written notice from the Board to perform such maintenance, repairs or replacements within such reasonable time limit as may be set by the Board, the Board may cause such needed maintenance, repairs and replacements to be performed, and shall levy an assessment against such Unit and the Owner thereof equal to the amount so expended.

(2) All costs incurred in the enforcement of the provisions of this Declaration against any Unit Owner, including, but not limited to, attorney's fees and court costs, shall be assessed to the Unit and the Owner against whom enforcement is sought.

C. Determination by Board. The total amount of the regular assessment and each Unit Owner's share thereof, as set forth herein, shall be determined and established by the Board at reasonable intervals, not less often than annually, and in accordance with the terms of the Articles and By-Laws. Each Unit Owner's share of the total assessment shall be paid in monthly installments, as directed by the Board and as set forth in the By-Laws. In addition to the special assessments set forth in subparagraphs 9(B) (1) and 9(B) (2) above, special assessments are hereby authorized in the event of unanticipated costs or expenses and any such special assessments for unanticipated costs or expenses shall be charged to the Units in the same proportion as regular assessments.

D. Accounting. The Board of Directors, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally

accepted accounting principles, and shall have same available for the inspection of all voting Owners and first mortgagees or beneficiaries under first deeds of trust, at reasonable times. Such books shall specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise.

E. Payment of Assessments and Lien Rights.

(1) The Board or its designated representative shall notify each Owner of a Unit of that Unit's share of the total assessment and the day of the month upon which monthly installments are due and payable. Each Unit Owner, for himself, his heirs, successors, grantees and assigns, covenants that with respect to charges so determined during the period that he is an Owner, he will remit these charges to the Association or the party or parties as directed by the Board.

(2) Assessments attributable to Units and/or monthly installments thereof shall be paid on or before the dates established by the Board, and all sums not so paid may bear interest at the highest rate lawful for individuals to pay under the laws of Arizona from the due date until paid, at the election of the Board. In addition and to the maximum extent allowable under law, the Board, by appropriate regulation, may impose a charge for late payment. All payments on account shall be first applied to late charges, if any, interest and then to the assessment payment first due.

(3) No Owner may exempt himself from paying such assessments or charges by being a non-user of the General Common Elements or by abandoning the Unit of which he is the record Owner, or by otherwise avoiding such obligations:

(4) Each assessment or any other charge made on a Unit, pursuant to this Declaration, shall constitute a lien on such Unit to secure the payment of such amounts, which lien and the right to foreclose the same shall be in addition to and not in substitution of all the rights and remedies which the Association and the Board may have in accordance with the provisions of this Declaration or otherwise.

(5) Each Owner, by his acceptance of a deed to a Unit, hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of all such assessments or charges as a debt, and to enforce the lien securing same by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in the like manner as a mortgage of real property, and/or a mechanic's lien, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The Association may make payments on any prior liens including any mortgage or taxes on the Unit, and such payments shall be added to the lien in favor of the Association. The lien provided for in this paragraph shall be in favor of the association and shall be for the benefit of all other Unit Owners. The Association shall have the power to bid in any foreclosure sale pursuant to such foreclosure, and to acquire and hold, lease, mortgage and convey the Unit so purchased. The Association may institute suit to recover a money judgment for unpaid obligations of the Owner without being required to foreclose its lien on the Unit involved and without waiving the lien which secures such obligations. In any such foreclosure proceeding, the Owner shall be required to pay reasonable attorney's fees, court costs and a reasonable rental for the Unit, commencing as of the date foreclosure proceedings are filed, and in such proceedings the Association shall be entitled, subject only to the prior right of the holder of a first mortgage or first deed of trust, to such rent, and to the appointment of a receiver to collect same.

(6) Anything to the contrary notwithstanding contained in this Declaration or otherwise, the following provisions shall apply to and benefit the holder of any bona fide first mortgage and the beneficiary (and trustee) under any bona fide first deed of trust made in good faith and for value on any Unit, whether now existing or made and recorded at any time hereafter:

(a) During the pendency of any foreclosure proceedings to foreclose the first deed of trust or any first mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to power of sale conferred under a deed of trust and pursuant to law, the first mortgagee or the beneficiary (or trustee) under a deed of trust, or a receiver appointed in any such

action, may, but need not, exercise any or all of the rights and privileges of the Owner in default of a Unit, including, but not limited to, the right to vote as a member of the Association in the place and stead of the defaulting Owner.

(b) The first mortgagee, beneficiary under a deed of trust, or any other party acquiring title to a mortgaged Unit through foreclosure of the first mortgage or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, or the sale of a Unit by the trustee under a deed of trust, and the successors in interest to said purchasers shall acquire title to a Unit so encumbered free and clear of any lien authorized by or arising out of any of the provisions of this Declaration which secures the payment of any assessment for charges accrued prior to the final conclusion of any such foreclosure or equivalent proceedings. Any such unpaid assessment against the Unit foreclosed shall be deemed to be a Common Expense charged proratably against all of the Units. Notwithstanding the foregoing, however, in the event the Unit Owner against whom the original assessment was made is the purchaser or redemptionor, the lien shall continue in effect and the said lien may be enforced by the Association for the respective Unit's assessment that was due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid assessment shall nevertheless continue to exist as the personal obligation of the defaulting Owner of the respective Unit to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a member of the Association.

(c) There shall be a lien upon the Unit, enforceable against the first mortgagee, or the beneficiary under a deed of trust, or other party which acquires title to a mortgaged Unit by foreclosure or by equivalent proceedings, for all assessments authorized by this Declaration which accrue from and after the date title to a Unit and the right to possession of the Apartment Unit has been acquired after the conclusion of such foreclosure proceedings.

(d) The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed upon any Unit; provided that such mortgage or deed of trust is in favor of Declarant, a bank, a savings and loan association, an insurance company, a mortgage banker or other institutional lender, or any of their assigns, individuals as well as institutional; and, provided further, that such subordination shall apply only to the assessments which have become due and payable prior to the date title to a Unit and the right to possession of the Apartment Unit has been acquired after the conclusion of foreclosure or other proceedings in lieu of foreclosure.

10. INSURANCE. RECONSTRUCTION. REPAIRS. Insurance, which shall be carried by the Association on the Condominium Property and on any portion of the Property owned by Unit Owners, shall be governed by the following provisions:

A. Authority to Purchase. The Board shall be authorized to purchase certain insurance upon Condominium Property, which is to be purchased by the Association for the benefit of the Association, the Unit Owners, and the mortgagees and trustees (and beneficiaries) under deeds of trust, as their interests may appear, and provision shall be made for the issuance of certificates of endorsement to the mortgagee of any first mortgage or endorsements for the benefit of the beneficiary and trustee under any first deed of trust on any Unit. Such policies and endorsements thereon shall be deposited with the Association and the appropriate certificates shall be delivered to all mortgagees. The Board shall deliver a copy of the policies, or by and through their agent advise the Unit Owners of the coverage of said policies to determine which particular items are included within the coverage so that the Unit Owners may insure themselves as they see fit if certain items are not insured by the Association. Without limiting the generality of the foregoing, it shall be each Owner's responsibility to provide for himself as he sees fit owner's liability insurance, theft or other insurance covering personal property damage and loss, and also insurance for each Owner's personal liability. Further, it shall be the responsibility of each Owner to provide and obtain:

(1) Casualty insurance on the portion of his Apartment Unit which is not considered part of the Common Elements (including but not limited to carpeting, drapes, wall covering, fixtures, furniture, furnishings and other

personal property).

(2) Insurance which is not carried by the Association and which the Unit Owner desires.

B. Coverage. The Association shall maintain and pay the premium for policies of insurance as follows:

(1) Casualty. Those Buildings and improvements upon the land, and betterment thereto, and the personal property and equipment constituting and included in the Common Elements shall be insured by the Association in an amount equal to the maximum insurable replacement value as determined from time to time by the Board. Such coverage shall afford protection against:

(a) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

(b) Such other risks as from time to time shall be customarily covered with respect to Buildings on the land, including, but not limited to, vandalism and malicious mischief.

(2) Public Liability. Insurance in a minimum amount of \$300,000.00 for each person injured and \$500,000.00 minimum coverage for each occurrence, and a minimum of \$50,000.00 insurance coverage for property damage arising out of or in connection with any such occurrence.

(3) Workmen's Compensation policy, if necessary to meet the requirements of law.

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

(5) The insurance policy or policies purchased by the Association shall, to the extent possible, as determined by the Board in its sole discretion, contain the following provisions:

(a) That the coverage afforded by said policy or policies shall not be brought into contribution or proration with any insurance which may be purchased by Unit Owners or their mortgagees or trustees (or beneficiaries) under a deed of trust.

(b) That the conduct of any one or more Owners shall not constitute grounds for avoiding liability on said policy.

(c) That any "no other insurance" clause shall exclude insurance purchased by Unit Owners or their mortgagees, or trustees or beneficiaries under deeds of trust.

(d) That there shall be no subrogation with respect to the Association, its employees, Unit Owners and their families, and employees, or it should name said persons as additional insureds.

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

C. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of an Apartment or its appurtenances, or of the Common Elements by an Owner, shall be assessed against that particular Owner. The holder of any first mortgage or deed of trust against a Unit may pay overdue premiums, or obtain new insurance if existing insurance has lapsed, and the Association shall repay the sums so advanced upon demand.

D. Insurance Claims. The Association, acting by and through its Board, is hereby irrevocably appointed agent for each Owner, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and the Board has full and complete power to act for the Association in this regard. Notwithstanding the foregoing, the Board shall fully advise all Owners and mortgagees as to any damage incurred and claims made, as well as the progress thereof.

E. Insurance Trustee; Proceeds.

(1) All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and mortgagees (and trustees and beneficiaries under deeds of trust) as their interests may appear, and shall provide that proceeds covering property losses shall be paid to any bank in Arizona which is selected as a trustee by the Board, which bank is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds.

(2) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold them in trust for the benefit of the Unit Owners and their mortgagees as follows: An undivided share of such proceeds on account of damage to Common Elements shall be allocated to the Unit Owners according to their shares of the Common Elements as set forth in this Declaration. Proceeds, if any, on account of Apartment Units shall be held for the Owners of damaged Apartment Units in proportion to the cost of repairing the damage suffered by each Apartment Unit Owner, which cost shall be determined by the Association. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear.

(3) Proceeds of insurance policies received by the Insurance Trustee shall be distributed as follows:

(a) All expenses of the Insurance Trustee shall be first paid.

(b) If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds after payment of 10(E) (3) (a) above shall be expended as provided in subparagraph 10(G).

(c) If it is determined as provided in subparagraph 10 (F) that the damage for which the proceeds are paid shall not be reconstructed or repaired or if there are excess proceeds remaining after a reconstruction and repair, the remaining proceeds shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee or beneficiary of a Unit and may be enforced by such mortgagee/beneficiary.

(4) In making distribution to Unit Owners and their mortgagees or beneficiaries, the Insurance Trustee may rely upon a certificate of the Association as to the names of the Unit Owners and their respective shares of the distribution, and as to whether or not the Building or Buildings are to be reconstructed or repaired.

F. Damage and Repair. If any part of the Condominium Property or any property in which the Association owns an interest shall suffer loss or damage by casualty whether or not it shall be repaired or reconstructed, shall be determined in the following manner:

(1) If the damaged property is part of the Common Elements or any property in which the Association owns an interest, it shall be repaired or reconstructed, unless it is determined in the manner hereinafter provided that the condominium shall be terminated.

(2) If the damaged property is a Building or Buildings containing Apartment Units, the damage shall be repaired and reconstructed if the Board finds that eight (8) or more of all the Apartment Units are tenantable, unless within sixty (60) days after the loss or damage, the Owners of all of the Apartment Units and the holders of all first mortgages and first deeds of trust agree to terminate the Condominium. If the damaged property is a Building or Buildings

containing Apartment units, the damage shall not be repaired or reconstructed if the Board finds that none of the Apartment Units are tenantable, and in such case the Condominium will be terminated as hereinafter provided, unless within sixty (60) days of the loss or damage the Owners of six (6) or more of the Units and the holders of all of the first mortgages of record agree, in writing, to such repair or reconstruction.

(3) Any repair or reconstruction must be substantially in accordance with the plans and specifications for the original improvements; or if not, then according to plans and specifications approved by the Board and a majority of the Owners.

(4) If the loss or damage is only to those parts of an Apartment Unit or Apartment Units for which the responsibility of maintenance and repair is that of the Apartment Unit Owner, then the Apartment Unit Owner shall be responsible for repair and reconstruction; provided, however, to the extent any insurance proceeds collected are attributable to the Apartments (and not the Common Elements) the share of the proceeds attributable to the Apartment Units shall be used for repairs and reconstruction of the Apartments.

(5) Immediately after a determination is made to repair or reconstruct damage to property for which the Association has the responsibility for repair and reconstruction, the Association shall obtain reliable and detailed estimates of the cost of the repair or reconstruction.

(6) If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, assessments shall be made against the Unit Owners in the case of damage to Common Elements, in sufficient amounts to provide funds to pay the estimated costs. Additional assessments may be made at any time during or following the completion of construction. Such assessments against Unit Owners for damage to Apartment Units shall be in proportion to the cost of reconstruction and repair of their respective Apartment Units. Such assessment on account of damage to Common Elements shall be in proportion to the Owner's share in the Common Elements.

G. Manner of Disbursement. The proceeds from assessments and insurance received by the Insurance Trustee shall be disbursed in the following manner:

(1) That portion of the insurance proceeds, if any, representing damage, the reconstruction and repair of which is the responsibility of the Apartment Unit Owner, shall be paid by the Insurance Trustee to the Apartment Unit Owner or, if there is a mortgagee endorsement, then to the Apartment Unit Owner and the mortgagee jointly, who may use such proceeds as they may determine; provided, however, to the extent that any damage to an Apartment Unit affects in any way the Common Elements or any other Owner's Apartment Unit, the proceeds must be used for reconstruction and repair of such damage.

(2) The portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the Association, shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board and upon approval of an architect, engineer, or experienced contractor, qualified to practice in Arizona and employed by the Association to supervise the work.

(3) The Insurance Trustee shall not be required to determine whether a disbursement is to be made, the identity of the payee, or the amount to be paid, but may rely upon a certificate of the Board acting for and on behalf of the Association stating such information.

H. Termination. If it is determined in the manner hereinabove provided that the Building or Buildings containing Condominium Units shall not be repaired or reconstructed because of damage or destruction as set forth in subparagraph 10 (F) (2) above, then and in such event, this Condominium shall be terminated and all of the Owners and all of the mortgagees and lienholders of record of all of the Units hereby constitute and appoint the Board, and each of the members of the Board, as their attorney-in-fact for the purpose of executing, acknowledging and recording a declaration withdrawing the Property from this Horizontal Property Regime, which power is irrevocable and coupled with an interest.

11. MANAGEMENT AGREEMENTS. Each Unit Owner hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Board. A copy of all management agreements shall be available to each Unit Owner, and any and all management agreements entered into by the Association shall provide that said management agreements may be cancelled and terminated without liability upon no more than ninety (90) days notice.

12. NEGLIGENCE. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any of his family, employees, invitees, agents or lessees, but only to the extent that such expense is not reimbursed by the proceeds of any insurance carried by the Association.

13. COVENANTS RUNNING WITH THE LAND. It is intended and is hereby declared that the provisions of this Declaration shall be covenants running with the land, and such provisions, except as otherwise provided herein, shall apply to and be binding, to the fullest extent permitted by law, on all successors in interest to Declarant and shall benefit and be enforceable by every person who now, or at any time hereafter, owns or holds an interest in said Property. Declarant shall be deemed a beneficiary of said provisions hereof and such provisions shall run in favor of Declarant without regard to whether Declarant is or remains an Owner of said Property or interest therein. As such beneficiary, Declarant shall have the right, in the event of any breach of any of said provisions hereto, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of any of said provisions to which beneficiaries of such agreement may be entitled.

14. INVALIDITY OF ANY PROVISIONS. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and, in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained herein should be invalid or should operate to render this Declaration invalid, this Declaration shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses paragraph or paragraphs, or section or sections had not been inserted. In the event that any provision or provisions of this instrument appear to be violative of the rule against perpetuities, such provisions or provisions shall be construed as being void and of no effect as of twenty-one (21) years after the death of the last surviving of the following individuals: the President of the Unit States (and his children who shall be living) at the time this instrument is recorded.

15. USE OF THE COMMON ELEMENTS. Subject to the provisions of subparagraph 2(L) above, each Owner shall have the right to use the Common Elements in common with all other Owners as may be required for the purposes of access and ingress and egress to, and use, occupancy and enjoyment of, the respective Apartment Units owned by such Owner, and for such other related purposes as from time to time may be prescribed by the Board. Such right to use the Common Elements shall extend to each Owner and the agents, servants, tenants, family members and invitees of each Owner. Such rights to use and possess the Common Elements shall be subject to and governed by the provisions of this Declaration, the Articles, By-Laws, and rules and regulations of the Association.

16. TERMINATION OF CONDOMINIUM; SHARES OF OWNERS AFTER TERMINATION. This Horizontal Property Regime may be terminated by the agreement of all the Owners and holders of mortgages and encumbrances pursuant to the provisions of the Act, or as herein provided. After termination of the Horizontal Property Regime, the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owners' Apartment Units prior to the termination.

17. VIOLATION OF DECLARATION; REMEDIES. The following provisions are in addition to and not in lieu of any other terms and conditions contained in the Declaration relating to remedies.

A. Summary Enforcement. Violation of any of the restrictions or conditions, or breach of any of the covenants or agreements contained herein or breach of any rules and regulations promulgated by the Board shall enable the Association, acting through the Board or an authorized agent, or an encumbrance holder in the

event that the Association refuses to act, to enter an Apartment Unit, after reasonable written notice, as to which said violation or breach may exist and summarily enforce such restrictions, conditions, covenants, agreements, or rules and regulations and to abate and remove the thing or condition which may exist thereon contrary to the provisions hereof, at the sole expense of the Owner of said Apartment Unit, without being deemed guilty of having trespassed in any manner.

B. General Enforcement. In the event of any default by an Owner or Occupant under the provisions of the Act, this Declaration, the Articles, the By-Laws, or the rules and regulations of the Association, the Association, acting through the Board or an authorized agent, shall have any and all of the rights and remedies which may be provided for in the Act, this Declaration, the Articles, the By-Laws or said rules and regulations, or which may be available at law, and may prosecute any action or other proceedings against such defaulting Owner and/or Occupant for enforcement of these restrictions, including, but not limited to, the foreclosure of the lien of the Association and the appointment of a receiver for the Unit, without regard to the value of such Unit or the solvency of such owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Unit and to rent the Unit and apply the rent received to payment of unpaid assessments, late charges, if any, and interest accruing thereon, and to sell the same as provided herein, or for any combination of remedies or for any other relief. Nothing contained in this Declaration shall preclude the Association, its agents, the Board, Declarant, an aggrieved Owner, a mortgagee or other person having an interest in the Property from exercising any available remedy at law or in equity. The Association, acting through the Board or its authorized agent, shall have the authority to correct any default and to do whatever may be necessary to enforce compliance with this Declaration, and all expenses, including attorney's fees, in connection therewith shall be charged to and assessed against such defaulting Owner, and such assessment shall constitute a lien against the defaulting Owner's Unit. The proceeds of any judicial sale foreclosing the lien of the Association shall first be paid to discharge court costs, other litigation costs, including but without limitation, reasonable attorney's fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds, after satisfaction of all charges, unpaid assessments, interest, late charges, and other liens, shall be paid to the Owner. Upon the confirmation of the sale, the purchaser thereupon shall be entitled to a deed to the Unit and to immediate possession of the Unit and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration. All expenses in connection with any action or proceedings, including court costs and reasonable attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the greater of twenty percent (20%) per annum or the highest rate which may be charged individuals under law shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and shall be a lien upon the Unit of such defaulting Owner and upon all of his additions and improvements thereto. Any and all rights and remedies may be exercised at any time provided for in this paragraph shall be and are junior and subordinate to the lien of a first mortgage or first deed of trust as set forth in subparagraph 9(E) (6) and shall be foreclosed in the same manner as a realty mortgage and/or a mechanic's lien in the State of Arizona.

C. Miscellaneous. If any Owner (either by his conduct or by the conduct of any Occupant of his Apartment Unit) shall violate any of the provisions of this Declaration, or the provisions of the other documents referred to herein, as then in effect, and such violation shall continue for fifteen (15) days after notice in writing, or shall occur repeatedly during any fifteen-day period after written notice or request to cure any such violation, then the Association, acting through the Board or any authorized agents, or any other Owner, or an encumbrance holder, shall have the power to file an action against the defaulting Owner for a judgment or injunction against the Owner or Occupant requiring the defaulting Owner and/or Occupant to comply with the provisions of this Declaration, the Articles, the By-Laws or the rules and regulations, reasonable attorney's fees, and court costs. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration shall not defeat or adversely affect the lien of any first mortgage or first deed of trust upon any Unit, but except as herein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a unit whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

18. CONDEMNATION.

A. If a portion of the Property should be taken by exercise of the power of eminent domain, or should be transferred and conveyed to a condemning authority in anticipation of such exercise, the entire award made as compensation for such taking, including, but without limitation, any amount awarded as severance damages, or the entire amount received and paid in anticipation of such taking, after deducting therefrom, in each case, reasonable and necessary costs and expenses, including but without limitation, attorney's fees, appraiser's fees and court costs (which net amount is hereinafter in this Section 18 referred to as the "Award") shall be paid to the Association, as trustee for all Owners and the Owners and holder of first mortgages and deeds of trust then encumbering the Units. If the portion of the Property taken or conveyed shall not be comprised of, or include, all or any part of a Unit or if a majority of Owners elect to restore or replace a Unit under subsection 18(B) below, the Association shall, as soon as practicable, cause the Award to be utilized for the purpose of repairing, replacing and restoring the affected area, including, if the Association deems it necessary or desirable, the replacement of any Common Element improvements so taken or conveyed.

B. Except as hereinafter provided in this Section 18, if the portion of the Property taken or conveyed is comprised of, or includes, all or any part of a Unit, the Association shall call a special meeting of the members of the Association to convene within thirty (30) days after its receipt of the Award to determine whether and, if so, in what manner such Unit shall be restored, reconstituted or replaced. If a majority of the votes entitled to be cast by the Association members determine, at such special meeting, not to restore, reconstitute or replace such Unit and related improvements, the Association shall distribute the portion of the Award relating to such Unit to: first, the holder of any mortgage or deed of trust upon such Unit, and second, the remainder to the Owner thereof. At such times as such Award has been so distributed, any such Owner who has lost his Unit by such taking or conveyance shall no longer possess any interest in the Property and the interest of the remaining Owners in the Common Elements shall automatically be adjusted accordingly. Any remaining Award shall then be subject to subsection 18 (A) above. Any remaining portion of the Award not used pursuant to subsection 18(A) above shall be divided into as many shares as there are remaining Units, such shares to be in the same proportion as the Owners' respective undivided percentage in the Common Elements after such taking or conveyance, and such shares shall be distributed to the Owners and the holders of any mortgage or deed of trust on the applicable Unit, as their interests appear.

C. If the cost of any repair and restoration shall exceed the amount of the Award, a special assessment shall be levied against the remaining Owners to the extent necessary to make up such deficiency. If relating to the Common Elements, such assessment shall be levied against the Owners in the same proportion as their percentage interest in the Common Elements after such taking or conveyance. If relating to a Unit, such assessment shall be levied against the Owner of such Unit. The special assessment provided for herein shall be secured by the lien provided for in paragraph 9 of this Declaration.

19. MISCELLANEOUS.

A. Formation Date for Association. Declarant agrees to take the necessary action to cause the Association to be formed prior to the time that any of the Units are sold and deeds (or recorded agreements for sale) for such Units are delivered to the respective purchasers. Until such time as the first meeting of the Members of the Association as described in subparagraph 8(B) above, Declarant shall have all rights and remedies accorded hereunder to the Association and its Board; provided, however, that nothing contained herein shall be in derogation of or a waiver of any and all rights which are granted Declarant by this instrument after the Association is legally formed. Regardless of whether or not the Association is legally formed and notwithstanding any other provision hereof, until the first meeting of the members of the Association: (i) in addition to, and not in derogation of, all other rights and remedies of Declarant, Declarant shall have and may exercise all of the rights and remedies of the Association and the Board; (ii) Declarant shall not be obligated or required to pay assessments or charges on account of ownership of Condominium Units and Condominium Units owned by Declarant shall not be subject to any lien or assessment provided for herein; and (iii) Declarant may impose and collect the assessments and charges provided for herein upon a uniform basis for Condominium Units not owned by Declarant, and all such amounts collected by Declarant may be commingled with Declarant's general funds and no accounting, budget, application of funds, or justification of any sort shall be required to Declarant.

B. Notices. All notices, requests, demands or other communications to or upon the persons referred to herein shall be deemed to have been given or made when deposited in the mails, postage prepaid, or in the case of telegraphic notice, when delivered to the telegraph company. No other method of giving notice is hereby precluded.

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

D. Judicial Proceedings. All Owners agree that any matter arising under this Declaration may be finally adjudged or determined in any court or courts of the State of Arizona or of the United States of America having jurisdiction in the State of Arizona, and such Owners hereby submit generally and unconditionally to the jurisdiction of such courts and of any of them in respect to any such matter; provided, however, as to those matters to be submitted to arbitration pursuant to any provision hereof, such arbitration provisions shall be controlling and prevail. For the purposes of instituting or defending any action with respect to the Common Elements, or with respect to any matter affecting the Owners with regard to the Common Elements, and further, in connection with enforcing this Declaration, the Articles, the By-Laws and any rules and regulations adopted pursuant to this Declaration, the Articles or the By-Laws, or in any other instance where the Board or the members of the Association deem it necessary for the best interest of the Condominium as a whole, the Association, acting by and through its Board, shall be deemed the real party in interest and is hereby authorized to commence and prosecute any such proceeding or to defend any such action. Nothing contained in this subparagraph 19(D) shall be deemed or construed to impose upon the Association, its members or its Board, any liabilities or obligations nor grant to any third party or parties any rights that any of said above-named parties would not otherwise have if this subparagraph were not contained herein.

E. Descriptive Headings. The descriptive headings of the several sections of this instrument are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

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

G. Mortgage/Deed of Trust. Wherever the words "mortgage" or "mortgagee" are used or referred to in this Declaration, the words will also be deemed to include a "deed of trust" or "trustee" or "beneficiary" under a deed of trust, which terms may be used interchangeably.

H. Binding Effect. Subject to the provisions contained herein, this instrument shall be binding upon and inure to the benefit of successors, assigns, purchasers, mortgagees, trustees and beneficiaries of deeds of trust, encumbrances, grantees, donees and lienors of and from Declarant and upon and unto their respective successors, assigns, purchasers, mortgagees, trustees and beneficiaries of deed of trust, encumbrancers, grantees, donees, and lienors.

I. Amendments or Supplements to Declaration.

(1) Except as otherwise permitted or restricted in this subparagraph 19(I), the provisions of this Declaration may be changed, modified, or rescinded by an instrument in writing, setting forth such change, modification or rescission signed and acknowledged by Owners owning not less than seven (7) of the Units; provided, however, that the holders of all first mortgages and the beneficiaries under all first trust deeds of record against all of the Units then covered by first mortgages or first deed of trust shall have consented, in writing, to each such change, modification or rescission.

(2) Notwithstanding the provisions of the foregoing subparagraph 19(I)(1), of the Act, this Declaration, or the Articles of Incorporation or the By-Laws require the consent or agreement of all Owners and/or all of the lienholders

and/or trustees and/or beneficiaries under trust deeds for any actions specified in the Act or this Declaration, then any instrument changing, modifying or rescinding any provisions of this Declaration with respect to such action shall be signed by same as required by the Act, this Declaration, the Articles of Incorporation or the By-Laws.

(3) Declarant may alter the interior design and the size and boundaries between Apartment Units at any time so long as (i) such altered Apartment Units are owned by Declarant; (ii) all mortgagees and all beneficiaries under deeds of trust then encumbering such altered Apartment Units agree in writing to such alterations; and (iii) such alterations do not modify or change the size, boundaries, the fractional interest in and to the Common Elements, or the share of the Common Expenses of any Apartment Units not owned by Declarant.

(4) Notwithstanding anything contained herein to the contrary or otherwise, no amendment of this Declaration shall be made or effective which amendment diminishes or otherwise impairs any of the rights, privileges or powers granted herein to Declarant or to any first mortgagee or the beneficiary (or trustee) under any first deed of trust, without the prior written consent of Declarant and all first mortgagees or beneficiaries under deeds of trust.

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the 8th day of March, 19 83.

TED BASS JONES CONSTRUCTION CO.,
an Arizona corporation

By Ted Bass Jones
Ted Bass Jones, President

"Declarant"

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this the 8th day of March, 1983, before me, the undersigned Notary Public, personally appeared Ted Bass Jones, President of TED BASS JONES CONSTRUCTION CO., an Arizona corporation, who acknowledged to me that he executed the foregoing instrument for the purposes therein expressed, for and on behalf of the corporation.

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

James A. Little
Notary Public

My commission expires:

January 30, 1984

