

DECLARATION 3002836-34-5-3--
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COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PALOMINO POINTE

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THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration"), is made and entered into this 31st day of August, 2005, by BLIVEN INVESTMENTS LLC, an Arizona limited liability company ("Declarant").

RECITALS

The Declarant is the sole owner of all of that certain real property which is located in the City of Phoenix, County of Maricopa, State of Arizona ("Property"), which is more particularly described as Greenway Manor, a subdivision according to that certain Plat of Declaration ("Plat") recorded on June 26, 1981, in Book 233 of Maps, at Page 47, in the Office of the Maricopa County Recorder, Arizona.

The Declarant intends to sell and convey the Property or portions thereof, and, before doing so, desires to subject and impose upon the Property mutual and beneficial assurances, restrictions, covenants, conditions, reservations, easements, liens, charges, equitable servitudes and development standards (collectively "Restrictions"), under a general plan of improvement for the benefit of the Property and its owners.

The Declarant has incorporated, or shall incorporate, as an Arizona nonprofit organization, Palomino Pointe Association ("Association") for the purpose of the efficient preservation of the values and amenities of the Property, to which has been delegated the power of maintaining and administering and enforcing the Restrictions and collecting and disbursing the assessments herein created.

NOW, THEREFORE, the Declarant hereby declares that the Property shall be held, sold, conveyed, used and improved subject to this Declaration and the following Restrictions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property, and all of which are hereby declared to be for the benefit of the Association, the Property, the Owners of the Property, and their heirs, successors, grantees and assigns. This Declaration establishes a general plan for the improvement and development of the Property and its use, occupancy and enjoyment as a planned unit development under and pursuant to applicable law. All of the provisions hereof shall be construed as covenants running with the land and

equitable servitudes for the benefit of and binding upon all parties having or acquiring any right, title or interest in any portion of the Property, irrespective of whether referenced in a deed or other applicable instrument of conveyance.

1. **Definitions.**

1.1 "Articles" shall mean the Articles of Incorporation of the Association, as and if amended from time to time.

1.2 "Assessment" shall mean the charges imposed, as provided in paragraph 7 hereof.

1.3 "Association" shall mean and refer to Palomino Pointe Association, its successors and assigns.

1.4 "Board" shall mean the Board of Directors of the Association.

1.5 "Bylaws" shall mean the Bylaws of the Association, as and if amended from time to time.

1.6 "Common Area" shall mean all real property owned or to be owned by the Association for the mutual use and enjoyment of the Owners together with the improvements and fixtures located thereon. Without limiting the foregoing, the Common Area shall include all of the Property so designated in the Plat and the private roadways, sidewalks, curbs, gutters, landscaping, parking areas, swimming pools, and all utility lines and systems located on the Property and all other portions of the Property which are located outside the Exterior Lot Lines. Notwithstanding the preceding, however, the Common Area shall not be deemed to include any portion of that portion of Tract "A" shown upon the Plat upon which is located that certain office building and related improvements ("Common Area Exclusion"); which Common Area Exclusion is more particularly described and set forth in Exhibit "A" attached hereto and incorporated herein. The ownership of the Common Area Exclusion shall be retained by the Declarant, its successors and assigns, and shall not hereafter be deemed subject, in any manner, to the Plat, this Declaration, or the Restrictions set forth herein.

1.7 "Declarant" shall mean (a) Bliven Investments LLC, an Arizona limited liability company, and/or one or more of its successors and assigns, if such successors or assigns acquire more than one Lot from Declarant for the purpose of development or resale and are designated by Declarant as having succeeded to the rights of a Declarant hereunder, or (b) First Horizon Home Loan Corporation, a Kansas corporation, and/or its successors and assigns, to whom Bliven Investments LLC, has conditionally assigned its Declarant rights hereunder.

1.8 "Declaration" shall mean the provisions and restrictions herein set forth in this document, as and if amended.

1.9 "Exterior Lot Lines" shall mean the outside boundary lines or perimeters of a Lot as depicted on the Plat which encloses the entire dimension of the land and improvements, if any, conveyed by Declarant to the Owner of the Lot.

1.10 [RESERVED]

1.11 "First Mortgage" shall mean any mortgage, deed of trust or agreement for sale made in good faith, for value and duly executed and recorded so as to create a lien upon any Lot or any Condominium Unit that is prior to the lien or any other mortgage, deed of trust or agreement for sale. The mortgagee, beneficiary and vendor of any such mortgage, deed of trust or agreement for sale, respectively, shall be referred to as the "First Mortgagee".

1.12 "Foreclosure" shall mean and refer to any procedure or process whereby a mortgage, deed of trust or agreement for sale may be foreclosed or enforced against property subject to its lien including, without limitation, judicial foreclosure, nonjudicial trustee's sale, forfeiture by notice proceedings, forfeiture by judicial proceedings, the acceptance of a deed in lieu of foreclosure or similar proceedings.

1.13 "Improvements" shall mean the buildings, carports, streets, roads, driveways, parking areas, fences, walls, docks, hedges, plantings, trees and shrubs, and all other structures or landscaping of every type and kind located on the Property.

1.14 "Lot" shall mean each portion of the Property, and the Improvements thereon or used in conjunction therewith, which has been divided and so designated by the Plat as and for a separate, complete, four-plex Multifamily Residence. The "Lot" includes the entire four-plex and a Single Family Residence or Condominium Unit of the four-plex does not constitute a separate Lot, but is included within and comprises a portion of the Lot. The Lots include all of the Property excluding the Common Area.

1.15 "Member" shall mean any person, corporation, partnership, joint venture or other legal entity who is a member of the Association as provided in paragraph 5.5.

1.16 "Multifamily Residence" shall mean any Lot separated or divided or to be divided so as to be used by more than one Single Family.

1.17 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any Lot or Condominium Unit. "Owner" shall include the purchaser of a Lot or Condominium Unit under an executory contract for the sale of real property. The "Owner" does not include persons or entities who hold an interest in any Lot or Condominium Unit merely as security for the performance of an obligation.

1.18 "Plat" means the subdivision plat of GREENWAY MANOR recorded in Book 233 of Maps, page 47, records of Maricopa County, Arizona, as and if amended.

1.19 "Property" shall mean and refer to the Property as described in the Plat.

1.20 "Restrictions" shall mean the assurances, restrictions, covenants, conditions, reservations, easements, liens, charges and development rights set forth herein.

1.21 "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, together with their domestic servants, who maintain a common household in a Lot.

1.22 "Single Family Residence" shall mean that portion of a Lot constructed or to be constructed for use by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal statutes, ordinances, rules and regulations, and shall include a Condominium Unit.

1.23 "The Association Rules" shall mean the rules adopted by the Association as provided in paragraph 5.3.

1.24 "Condominium Unit" shall mean a Single Family Residence which has been divided into a separate "Unit", as that term is defined in A.R.S. Section 33-1201, et seq., by a Declaration of Establishment of Condominium recorded pursuant to A.R.S. Section 33-1201, et seq.

1.25 [RESERVED]

1.26 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation of no greater than the elevation at the base of the object being viewed.

2. Establishment. Declarant intends to develop the Property in accordance with the general plan depicted in the Plat whereby the Property shall be developed as a planned unit development of residential four-plex Lots mutually utilizing the Common Area.

3. Use Restrictions.

3.1 Residential. Each Lot and Condominium Unit shall be used, improved and devoted exclusively to first class residential use and, in the case of a Lot, as a four-plex Multifamily Residence, and no gainful occupation, profession, trade, business, religion or other non-residential use shall be conducted upon or from any Lot or

Condominium Unit. Each Single Family Residence within a Lot shall have a minimum enclosed floor area of 800 square feet excluding carports, storage rooms and the like. Carports and other areas within a Lot not initially designated as a living area shall not be used as a living area regardless of the presence or absence of alterations therein. Lots and Single Family Residences may be leased or rented provided the lease or rental agreement is in writing, provides that it shall be subject in all respects to the provisions of this Declaration, the Articles and Bylaws and provides that any failure to comply with the terms of such documents shall be a default under the lease or rental agreement.

3.2 Construction. No building or structure of any kind may be erected, placed or maintained on any Lot unless of new construction. The construction of a four-plex Multifamily Residence on a Lot shall be completed within nine months after commencement of construction. Trailers, mobile homes, modular homes, sheds or pre-fabricated structures of any kind; structures of a temporary character used as a residence either temporarily or permanently; unsightly window coverings such as aluminum foil, newspaper, cardboard, or the like; metal patio covers, sunscreens, covers, awnings or screen doors; and hospitals, sanitariums or other places for the care or treatment of the sick or disabled, mentally or physically, all shall be prohibited.

3.3 Accessories. No clotheslines, service yards, wood piles, exterior storage areas or structures, heating or air-conditioning equipment, or other exterior fixtures, machinery or equipment shall be permitted except with the prior written approval of the Board. Standard heating, air-conditioning or evaporative cooling self-contained units are exempt from this provision. Any such use or equipment as is approved and authorized shall be attractively screened or concealed (subject to all required approvals as to architectural control) so as not to be Visible From Neighboring Property. No automobile, truck or other vehicle, regardless of ownership, age, condition, or appearance, shall remain on an Lot or the Common Area in any manner which could be construed as being stores, neglected, abandoned or otherwise not in active use. Recreational vehicles not exceeding 28 feet in length may be parked in the carports within a Lot provided the access of others is not impeded. There shall be sufficient parking space to accommodate at least one automobile for each separate four-plex dwelling within a Lot and each Owner shall have the right to the use, for at least one automobile, of such space.

3.4 Utilities. All gas, electric, power, telephone, water, sewer and other utility and service connections and lines shall be located either underground or concealed in, under or on buildings or other structures, except when prohibited by law. Service pedestals, transformers, switch cabinets and similar installations may be located above ground. No outside speakers or amplifiers shall be permitted. No television, radio or other transmission or receiving antenna shall be permitted except one common television antenna per building not to exceed six (6) feet in height above the existing structure; subject, however, to the Board's periodic review as to the acceptability of the condition and location of any such common television antenna. With the prior

approval of the Board, satellite dishes and appurtenant equipment/wiring may be installed upon and outside buildings or other structures. No outside lighting shall be permitted except porchlights and other indirect noncolored lighting.

3.5 Signs. No advertising sign, billboard or display shall be permitted except for notices of uniform size on a master sign board at such location as the Board determines from time to time.

3.6 Walls. No walls or fences shall be constructed other than by Declarant unless previously approved by the Board as provided in paragraph 8.

3.7 Landscaping. Trees, shrubs, hedges, grass, plantings and other landscaping shall be completed within sixty (60) days of the completion of the construction of the Multifamily Residence on the Lot and thereafter the Association shall keep such landscaping trimmed, maintained and replaced when necessary with plantings of similar type and quality. No tree, shrub or other landscaping shall overhang or otherwise encroach upon any sidewalk, street or any portion of the Common Area without the prior written consent of the Board. No water hoses shall be allowed to remain attached to water spigots or other water sources when not in use. Desert landscaping, whether characterized by rocks, cactus or unaided nature, shall not comprise more than one-fifth of the landscaping Visible From Neighboring Property. No Owner shall allow any condition which shall induce, breed or harbor disease or noxious insects.

3.8 Maintenance. No Lot or Condominium Unit shall be permitted to fall into disrepair. All Lots and Condominium Units shall be kept in good condition and repair, adequately painted. No garbage, rubbish, trash, or debris shall be burned on the Property or be placed or allowed on a Lot or Condominium Unit except within containers complying with governmental standards. The placement and maintenance of such containers shall be subject to regulation by the Board. No Lot or Condominium Unit shall be allowed to present an unsightly appearance, endanger the health of Owners, emanate offensive noises or odors or constitute an aggravation, annoyance or nuisance. The interiors of all carports shall be maintained in a neat, clean and sightly condition. No carport shall be used for the maintenance of power equipment, hobby shops or carpenter shops, or for the conduct of automobile overhaul, repair or maintenance work. The Owner shall be responsible for complying with the requirements of this paragraph.

3.9 Alterations. No structures, improvements, additions, changes, expansions, alterations, repairs, painting, landscaping, excavation or other work which in any way affects or alters the exterior appearance of any Lot or the Improvements thereon or Condominium Unit shall be initiated without the prior written approval of the Board, as provided in paragraph 8. Pursuant to its rulemaking power, the Board shall establish a procedure for the preparation, submission and determination of

applications for any such work. The Board shall have the right to refuse to approve any plans or specifications or grading plan, which are not suitable or desirable, in its sole opinion, for aesthetic or other reasons, and in so passing upon such plans, specifications and grading plans, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed buildings, structure or other Improvement, the color, texture and materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings and the effect of the Improvements as planned, on the outlook from the adjacent or neighboring property. All subsequent additions to, changes or alterations in any Improvement, including exterior texture or color scheme, shall be subject to the prior approval of the Board. No changes or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Board. The exterior appearance of interior window treatments shall be subject to regulation by the Board. All decisions of the Board shall be final and no Owner or other party shall have recourse against the Board for its approval or refusal to approve any such plans or specifications.

3.10 Mining. No mining operations of any kind shall be permitted whether involving discovery, exploration, location, removal, milling or refining and whether relating to water, oil, gas, hydrocarbons, gravel, uranium, geothermal steam or otherwise.

3.11 Animals. No animals, reptiles, birds, fowl, poultry, fish, horses or livestock shall be permitted or kept on or in connection with any Lot or Condominium Unit or the Property. One commonly accepted household pet, such as a dog, cat or bird, and fish in reasonable numbers, may be maintained within a Lot or Condominium Unit for domestic but not commercial purposes. Household pets shall be restrained by fence, cage or leash at all times and shall not be allowed to eliminate excrement in the Common Area or other Lots or Condominium Units.

3.12 Subdivision. No Lot shall be further subdivided or separated into smaller or different portions or conveyed or encumbered in less than the full original dimension as set forth in the Plat, except that one or more Lots may be divided into separate Condominium Units corresponding to the Single Family Residence pursuant to a Declaration of Establishment of Condominium, which Declaration may contain additional covenants, conditions and restrictions not contradictory to or prohibited by this Declaration for the governance of the Condominium, payment of its own common expenses and regulation of the rights and duties of the owners of Condominium Units therein among themselves. Dedication, conveyance or the granting of easements to public utilities or other public or quasi-public entities may be permitted with the prior approval of the Board.

3.13 Compliance. No Lots or Condominium Units shall be used or maintained in violation of any applicable statute, ordinance, code or regulation of any

governmental authority, the provisions of this Declaration, or the rules and regulations of the Association.

3.14 Exemption. In developing the Property and constructing and marketing the Lots and/or Condominium Units, Declarant shall not be subject to the restrictions contained in this Declaration or in the Articles of Incorporation, Bylaws or rules and regulations of the Association, and nothing contained herein or therein shall be deemed to prohibit or interfere with such activities by Declarant or its agents. Declarant and its agents may utilize any portion of the Property (except Lots and Condominium Units previously conveyed to Owners other than Declarant) for any and all construction and sales activities. All Improvements constructed or installed by Declarant expressly shall be permissible without necessity for approval by the Board or any others and notwithstanding any restriction or prohibition to the contrary set forth in this Declaration.

4. Party Walls. The rights and duties of Owners of Lots and Condominium Units containing party walls, partitions, dividers or fences, hereinafter "walls" shall be as follows:

4.1 Definition. Each wall, including patio walls, which is constructed so that any part is placed on or as the dividing line between separate Lots or Condominium Units, shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these provisions, and, to the extent not inconsistent herewith, the general rules of law regarding party walls and of liability for negligent or willful acts or omissions shall be applied thereto. Walls separating adjacent property not included within the Property are not party walls and shall be the responsibility of the Owner of the Lot or Condominium Unit containing the wall (or the Association if otherwise so provided herein).

4.2 Damage. In the event any party wall is damaged or destroyed through the act of one adjoining Owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable), then such Owner shall forthwith proceed to rebuild and repair the same to as good a condition as formerly without cost to the adjoining Owners.

4.3 Repairs. In the event any party wall is damaged or destroyed (including ordinary wear and tear and deterioration from lapse of time), by some cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family, all such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good a condition as formerly at their joint and equal expense (unless maintenance and repair is the responsibility of the Association pursuant to paragraph 6.2).

4.4 Negligence. Notwithstanding any other provision hereof, an Owner who by his negligent or willful act or omission causes any party wall to be exposed to the

elements shall bear the whole cost of furnishing the necessary protection against such elements and repairing damage caused thereby.

4.5 Alterations. In addition to meeting the other requirements of this Declaration, any Owner proposing to modify, make additions to or rebuild his Lot in any manner which requires the extension of other alteration of any party wall shall first obtain the written consent of the adjoining Owners and the Board.

4.6 Arbitration. In the event of any dispute between Owners with respect to the repair or rebuilding of a party wall, or with respect to any other matter in connection therewith, then upon written request of one such Owner addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If such rules have not been adopted by the Association, then the matter shall be submitted to three arbitrators, one chosen by each of the Owners and the third by the two so chosen, or if the two arbitrators cannot agree as to the selection of the third arbitrator within ten days, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the Owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten days after receipt of a request in writing for arbitration from the other party, then the other party shall have the right and power to choose both arbitrators.

4.7 Application. The right of any Owner to contribution from any other Owner under this paragraph shall be appurtenant to the Lot and shall pass to and be binding upon such Owner's heirs, assigns and successors in title.

5. Palomino Pointe Association.

5.1 Organization.

5.1.1 The Association. The Association shall be a nonprofit corporation charged with the duties and invested with the powers prescribed by law including without limitation to act as the highest governing body of the Property for the protection, improvement, maintenance, repair, administration and operation of the Common Areas and the exercise of its other rights and powers and performance of its other duties as set forth in the Articles, the Bylaws and this Declaration. 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 its Members in accordance with the provisions of this Declaration, the Articles and the Bylaws. At the option of the Board, the Association may comply with the requirements necessary to constitute a "Residential Real Estate Management Association" within the meaning of any applicable Section of the Internal Revenue Code of 1986, as amended ("Code"), or within the meaning of Section 501(c)(4) of the Code. The Articles and the Bylaws may

contain any provision not inconsistent with law, this Declaration, or any applicable rule and regulation of any governmental entity or lender having jurisdiction.

5.1.2 Subsidiary Associations. The Association or any Owner of one or more Lots shall have the right to form one or more subsidiary associations for any purpose or purposes deemed appropriate. Without limiting the generality of the foregoing, one or more subsidiary associations may be formed for the operation and maintenance of any specific area located within the Property or as and for the council of co-owners of any Condominium located on the Property. However, such subsidiary associations shall be subject to this Declaration and may not take any action to lessen or abate the rights of the Owners.

5.1.3 Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles and Bylaws.

5.2 Powers and Duties of the Association. The Association shall have such rights, duties and powers as set forth herein and in the Articles and Bylaws.

5.3 The Association Rules. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations, to be known as "The Association Rules". The rules may restrict and govern the use of any area by an Owner, by the family of such Owner, or by any invitee, licensee or tenant of such Owner, and by any other person at any time located on the Property; provided, however, that the rules may not discriminate and offend and shall not be inconsistent with law, this Declaration, the Articles or the Bylaws or the rules and regulations of any governmental entity or lender having jurisdiction. A copy of the rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and may be recorded.

5.4 Personal Liability. No member of the Board, Committee of the Association, officer of the Association, compensated or voluntary manager, or employee or agent shall be personally liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct. Officers and Directors of the Association shall be indemnified against personal liability for acts or omissions in the manner set forth in the Bylaws.

5.5 Membership. Every Owner automatically shall be a member of the Association and membership shall be appurtenant to and may not be separated from such ownership. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to the Owner's Lot or Condominium Unit and

then only to the transferee of such ownership; provided, however, that this provision shall not impair the validity of any proxy, whether revocable or irrevocable, which has been granted in accordance with the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to any Lot or Condominium Unit shall operate automatically to transfer membership to the new Owner. Lessees and other occupants of a Lot or Condominium Unit, unless they also are the Owner of the Lot or Condominium Unit, shall not be a member of the Association.

5.6 Voting Rights. The Association shall have two classes of voting members.

5.6.1 Class A. Class A Members shall consist of all Owners except Declarant and each shall be entitled to one vote for each Condominium Unit, or Single Family Residence within a Lot, owned by such Owner. Therefore, the maximum number of Class A votes per Lot shall be four (4) votes, and the maximum number of Class A votes per Condominium Unit, or Single Family Residence, shall be one (1) vote.

5.6.2 Class B. The Class B Member shall be the Declarant who shall be entitled to three votes for each Condominium Unit, or Single Family Residence within a Lot, owned by the Declarant. Therefore, the maximum number of Class B votes per Lot shall be twelve (12) votes, and the maximum number of Class B votes per Condominium Unit, or Single Family Residence, shall be three (3) votes. The Class B membership shall cease and be converted to Class A memberships on the happening of any of the following events, whichever occurs earlier:

5.6.2.1 On the date which is NINETY (90) days subsequent to the date when the total number of votes of the Class A Members equals or exceeds the total number of votes of the Class B Member; or

5.6.2.2 On the tenth (10th) anniversary following the date of recording of this Declaration.

5.6.3 Procedure. The vote for each Lot or Condominium Unit must be cast as a unit, and fractional votes shall not be allowed. If joint Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If at a meeting of the Members duly called and held any Owner or Owners without objection casts a vote representing a certain Lot or Condominium Unit, thereafter it will be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot or Condominium Unit. In the event more than one vote is cast for a particular Lot or Condominium Unit, none of the votes shall be counted and such votes shall be void.

5.7 Bylaws. Each member shall have such other rights, duties and obligations not inconsistent herewith as are set forth in the Bylaws.

5.8 Management Agreements. If and so long as required by the rules and regulations of any governmental entity or lender having jurisdiction, or at such additional times as the Board may determine, the Association shall enter into agreements for the professional management of the Property including the Common Area and may enter into other contracts providing for management and maintenance services with the Declarant, or any builder or other party; provided, however, that any such agreement may not have a term exceeding one year and must provide for termination by either party thereto with or without cause upon thirty days' or less prior written notice.

6. Covenant for Maintenance.

6.1 Owners. Each Owner of a Lot shall be responsible for and bear the expense of the repair and maintenance of the exterior and interior of his Lot to its Exterior Lot Lines, including all areas and features not expressly herein provided to be maintained by the Association. In the case of a Lot which has been divided into separate Condominium Units, the council of co-owners of the horizontal property regime shall be responsible for the maintenance of such Lot as if it were the Owner thereof, and the Owner of each Condominium Unit shall be responsible for and bear the expense of the repair and maintenance of the interior of his Unit. In such repair and maintenance, an Owner shall not interfere with, hinder or damage any Common Area or the area or Improvements of any other Lot or Condominium Unit. In addition, if the need for repair or maintenance of areas to be repaired and maintained by the Association is caused through the negligent or willful acts or omissions of the Owner, his family, licensees, guests, tenants, or invitees, the cost of such repair or maintenance, may, to the extent of such Owner's liability at law, at the option of the Board, be charged to such Owner, either directly or through increased assessment. Further, the Association shall, after giving reasonable notice to the Owner, enter any portion of the Property subject to this Declaration, including any Lot or Single Family Residence, and correct any situation which is not in compliance with the requirements of this Declaration, and the cost of any such action which is undertaken by the Association because of the failure or neglect of the Owner, shall be the responsibility of the Owner, either directly or through assessment by the Association, at the option of the Board.

6.2 Association. The Association shall be responsible for and shall bear the expense of maintaining the Common Area and facilities in good condition and repair, adequately painted, landscaped and maintained, free of rubbish and debris and in a neat, clean and sightly condition, including sewer and water lines, private streets and all areas of the Property up to the Exterior Lot Lines and shall repair and maintain such Lots, or portions thereof, including Condominium Units, as are not properly constructed, landscaped or maintained by Owners. For example (a) plumbing pipes

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located inside the Exterior Lot Lines shall be the responsibility of the Owner of the Lot (or council of co-owners if applicable) but plumbing pipes located outside the Exterior Lot Lines shall be maintained by the Association, and (b) the repair and maintenance of lawns and landscaping in the Common Area shall be the responsibility of the Association. The costs and expenses of the repair and maintenance of the Common Area and facilities undertaken by the Association shall be a common expense to be distributed and allocated among the Owners pursuant to the provisions of paragraph 7, except that any expenses incurred by the Association for work inside any Lot which was the responsibility of any Owner shall be charged to and paid by such Owner.

7. Covenant for Assessments.

7.1 Creation of Lien and Personal Obligation. The Declarant, for each Lot or Condominium Unit within the Property, hereby covenants, and each Owner of any Lot or Condominium Unit by acceptance of such Lot or Condominium Unit, whether or not it shall be so expressed in the instrument of conveyance, is deemed to covenant and agrees to pay to the Association such Owner's share of (1) regular assessments and charges and, (2) special assessments for capital improvements and other purposes, in each case as the same are established and allocated among the Owners, as hereinafter provided and, (3) all other amounts which may from time to time be charged to or assessed upon any Owner in accordance with the terms of this Declaration. The assessments, together with interest, costs, and reasonable attorney's fees, shall be a charges on the land and shall be a continuing lien upon the Lot or Condominium Unit against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such property at the time when the assessment fee due. The personal obligation for delinquent assessments shall not pass to successors in title unless such obligation is expressly assumed by them, but, except as herein expressly provided with respect to First Mortgagees, sale or transfer of a Lot or Condominium Unit shall not extinguish the lien for unpaid assessments, which shall be enforceable in the manner hereinafter provided; provided, however, that any person acquiring an interest in any Lot, Condominium Unit or other portion of the Property shall be entitled to a statement from the Association setting forth the amount of unpaid assessments thereon, if any, and such person shall not be liable for, nor shall any lien attach to such Lot, Condominium Unit or other portion of the Property being acquired by him in excess of the amount set forth in such statement, except for assessments and other charges which occur or become due after the date thereof. The obligation of an Owner to pay assessments shall not be affected by any diminished use of the Common Area or the abandonment of a Lot or Condominium Unit.

7.2 Purpose of Assessments. The assessments levied by the Association shall be used to promote the health, safety and welfare of the Owners, and for the improvement and maintenance of the Property and the Common Area including, without limitation, the payment of utilities, taxes and governmental assessments,

insurance premiums (including premiums for fidelity bonds), repair, maintenance and construction costs, security, operating expenses and reasonable reserves for contingencies, replacements and other proper purposes, including an adequate reserve fund for replacement of those Common Areas which must be replaced on a periodic basis, and supervision, management and related expenses.

7.3 Establishment of Assessments. Declarant and each Owner, for themselves, their heirs, successors and assigns, covenant that each Lot and Condominium Unit shall be subject to regular assessment in an amount and at the time to be determined by the Association in the following manner.

7.3.1 Repair and Maintenance. The pro rata share attributable to each Lot or Condominium Unit of the actual cost to the Association of the repair and maintenance to be performed by the Association as provided in paragraph 6.2.

7.3.2 Operations. The pro rata share attributable to each Lot or Condominium Unit of the actual cost to the Association of the operation, maintenance and security of the Common Area.

7.3.3 Taxes and Insurance. The pro rata share attributable to each Lot or Condominium Unit of the actual cost to the Association of taxes and governmental assessments on the Common Area and insurance maintained by the Association.

7.3.4 Reserves. The pro rata share attributable to each Lot or Condominium Unit of the sums determined by the Board to be prudent for the establishment of reserves for repair, maintenance, taxes, insurance, capital improvements and other charges for the benefit of the Owners and the Property. The Board shall maintain an adequate reserve fund for maintenance, repairs and replacement of those elements and components of the Common Area that must be replaced on a periodic basis, and such reserve shall be provided by regular assessments.

7.3.5 Miscellaneous. The pro rata share attributable to each Lot or Condominium Unit of such additional sums as the Board may determine to be necessary to fulfill the purposes of the Association.

7.3.6 Procedure. Regular assessments shall be determined by the Board in such manner as shall be set forth in the Bylaws. Written notice of the amount of assessments and the due date shall be provided to the Owners not less than thirty days prior to the due date if payable annually or not less than ten days prior to the due date if payable monthly, although failure to provide such notice shall not relieve any Owner from the obligation to pay such assessment. The first assessment period shall commence earlier than the first day of the first month following conveyance of the first Lot or Condominium Unit to an Owner than Declarant. Upon demand and for a reasonable charge, the Board shall furnish to any Owner a certificate setting forth

whether the assessments and charges on his Lot or Condominium Unit are paid and, if unpaid, the amount unpaid. The certificate when signed by an officer or Director shall be binding upon the Association as of the date of issuance.

7.4 Limitation. Regular assessments for the fiscal year ending December 31, 2005 shall not exceed the sum of \$100 per month, or \$1,200 per annum per Condominium Unit or Single Family Residence within a Lot. Thereafter, except with the approval of the Board and the ratification and approval by the affirmative vote of two-thirds of each class of the members present in person or by proxy at a meeting duly called for such purpose at which a quorum is present, the Board shall not increase the amount of the annual regular assessments by an amount greater than twenty percent (20%) of the annual regular assessments established for the previous year.

7.5 Special Assessments. In addition to regular assessments, the Board shall have the right and power to provide for the construction of recreational and other common facilities, or the alteration, demolition, removal or reconstruction of existing recreational and other common facilities, from time to time, as in its discretion appears to be in the best interest of the Association and the Property. Any such alteration, demolition, removal, construction, or addition shall be authorized by an affirmative vote of two-thirds of the Board at a duly called meeting at which a quorum is present, and ratified and approved by the affirmative vote of at least two-thirds of each class of members present in person or by proxy at a meeting duly called for this purpose at which a quorum is present. Special assessments shall be payable at the same time and in addition to regular assessments or, at the option of the Board, at different times or in one installment.

7.6 Assessment Rate. The pro rata share of the total assessment to be borne by each Lot or Condominium Unit shall be the Assessment Rate for that Lot or Condominium Unit. The Assessment Rate for each Lot shall be a percentage determined as the product of one ("1"), as the numerator, and the total of all Lots as the denominator. All assessments must be uniform for all Lots except as otherwise provided herein. The Assessment Rate for each Condominium Unit shall be one-fourth (1/4) of the Assessment Rate which would have applied to the Lot of which it is a part if such Lot had not been divided into Condominium Units.

7.7 Assessment of Condominium Units. If any Lot is divided into Condominium Units, such Lot as a whole shall no longer be liable for assessment of any common expenses, including regular or special assessments or the payment of any other charges or obligations, but the covenant and obligation to pay common expenses and other charges and the lien therefor shall be divided among the separate Condominium Units in such Lot and the Owners of such Condominium Units, whose obligations for the payment of any sum hereunder which would otherwise be applicable to the Owner of a Lot, including their own special and regular assessments, at the Assessment Rate applicable to their respective Condominium Units shall be

separate and independent of one another without lien or liability of any kind resulting from the failure of any other Owner of a Condominium Unit on such Lot to pay his assessments or other charges or perform his other obligations. Before dividing the assessments for any Lot among separate Condominium Units, the Board may require reasonable proof that a horizontal property regime has been created on such Lot and remains in effect.

7.8 Remedies of the Association. Each Owner shall be deemed to covenant and agree to pay to the Association the assessments provided herein on or before the due date thereof as established by the Board and agrees to the enforcement of the assessments in the manner herein specified. In the event the Association employs attorneys for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of or to recover charges for the violation of any of the terms and conditions of this Declaration, each Owner shall pay reasonable attorney's fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against such Owner. In the event of a default in payment of any assessment when due, the assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

7.8.1 Suit. The Board may cause a lawsuit to be commenced and maintained in the name of the Association against an Owner to enforce the payment of any delinquent assessment. Any judgment rendered in any such action shall include, without limitation, the amount of the delinquency, interest at the lesser of ten percent (10%) per annum or the highest lawful (usury) rate from the date of delinquency, court costs, and reasonable attorneys' fees fixed by the Court.

7.8.2 Lien. There is hereby created a lien, with private power of sale, on each and every Lot and Condominium Unit to secure payment to the Association of any and all assessments levied against any and all Owners and all other amounts which may from time to time be charged to or assessed upon any Owner in accordance with the terms of this Declaration together with interest thereon at the lesser of ten percent (10%) per annum or the highest lawful (usury) rate from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith including, without limitation, costs and reasonable attorneys' fees. After the occurrence of any default in the payment of any assessment or other amount, the Board, or any authorized representative, may but shall not be required to make a written demand for payment to the defaulting Owner on behalf of the Association. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or a lien, but any number of defaults may be included within a single demand or lien. If such delinquency is not paid after delivery of such demand, or even without such a written demand being made, the Association may elect to file a claim of lien on behalf on the Association against the Lot or

Condominium Unit of the defaulting Owner. However, a claim of lien is not required and any and all delinquent assessments or other amounts shall be a continuing lien on the Lot or Condominium Unit with or without the preparation or recording of a claim of lien. A claim of lien may be executed, acknowledged and recorded by any officer of the Association, and shall contain substantially the following information: (a) the name of the delinquent Owner; (b) the legal description and street address of the Lot or Condominium Unit; (c) the amount due and owing including interest thereon, collection costs, and reasonable attorneys' fees; and (d) that the lien is claimed by the Association pursuant to this Declaration. Upon the occurrence of a delinquent assessment or other amount or the recordation of a duly executed original or copy of a claim of lien, the lien shall immediately attach and become effective in favor of the Association as a lien upon the Lot or Condominium Unit against which such assessment or other charge was levied. Except as provided in paragraph 7.9 hereof, the lien shall have priority over all liens or claims created subsequent to the due date of the first delinquent assessment or other amount for which the lien is claimed. Any lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a realty mortgage or trust deed, with private power of sale, as set forth by the laws of Arizona, as and if amended. The lien shall be in favor of the Association and shall be for the benefit of all other Owners. The Association shall have the right to purchase at a sale and the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot or Condominium Unit. In the event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Upon the confirmation of a sale of any portion of the Property, the purchasers thereof shall be entitled to a deed and to immediate possession thereof and may apply to the court for a writ of restitution or other relief for the purpose of acquiring such possession. The purchasers at any such sale shall take such Property subject to this Declaration. Each Owner, by becoming an Owner of a Lot or Condominium Unit, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

7.9 Subordination of Lien. The lien for assessments provided for herein shall be subordinate to the lien of the First Mortgage on the Lot or Condominium Unit. The sale or transfer of any Lot or Condominium Unit pursuant to foreclosure of a First Mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer, and upon written request to the Board of Directors from such First Mortgagee, any such lien shall be released in writing by the Association. No sale or transfer pursuant to foreclosure of a First Mortgage shall release such Lot or Condominium Unit from liability for any assessments thereafter becoming due or from the lien thereof. Sale or transfer shall not relieve the previous Owner from personal liability for assessments that became due while such Owner was the Owner.

8. Architectural Control.

8.1 Duties. It shall be the duty of the Board to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt rules, and to carry out all other duties imposed upon it by this Declaration or The Association Rules.

8.2 Meetings and Compensation. The Board shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority in attendance, at a meeting or otherwise, shall constitute the act of the Board. The Board shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Board shall not be entitled to compensation for their services with respect to architectural control.

8.3 Rules. The Board may, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations to be known as "Architectural Rules". The Rules shall interpret and implement this Declaration by setting forth the fees required to be paid prior to review, the standards and procedures for review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features.

8.4 Waiver. The approval or disapproval by the Board of any plans, drawings or specifications for any work done or proposed or for any other matter requiring the approval of the Board shall not be deemed to constitute a waiver of any right to approve or withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

8.5 Liability. Neither the Board nor any member thereof shall be liable to the Association, any Owner, or to any other party for any damage, loss or prejudice suffered or claimed on account of the approval or disapproval of any plans, drawings or specifications, whether or not defective; the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; the development of any property; or the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member of the Board, such member acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of any of the foregoing provisions, the Board or any member thereof may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Board in connection therewith.

8.6 Time for Approval. In the event the Board fails to approve or disapprove within thirty days after complete plans and specifications have been submitted to it, approval will not be required and this paragraph will be deemed to have been waived as to such plans and specifications.

9. Property Rights and Easements.

9.1 Owners' Easement of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot and Condominium Unit, including an easement for vehicular ingress to and egress from his Lot or designated parking spaces for his Condominium Unit and a pedestrian easement for ingress to and egress from his Lot or Condominium Unit in, on, over and across the roads and walkways depicted in the Plat and as constructed within the Property, irrespective of whether the walkway intersects a Lot or Condominium Unit or the Common Area, subject to the following provisions.

9.1.1 Suspension. The right of the Association to suspend the voting rights and right to use the Common Area by an Owner for any period during which any assessment against his Lot or Condominium Unit remains unpaid, and for a period not to exceed sixty days for any other infraction of this Declaration or The Association Rules; provided, however, that the Association may not suspend any Owner's rights of access to and egress from his Lot or Condominium Unit.

9.1.2 Dedication. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board; provided, however, that no such dedication or transfer shall be effective without the written consent of not less than two-thirds (2/3) of the Members and fifty-one percent (51%) of the First Mortgagees holding First Mortgages on the Lots and Condominium Units; and further provided that, if and so long as there is a Class B Member, such transfer or dedication must also be approved by any governmental entity or lender having jurisdiction.

9.1.3 Delegation. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, guests, tenants or invitees.

9.2 Blanket Easement. There is hereby created a blanket easement upon, across, over and under the Property and the Lots and Condominium Units for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewer, gas, telephone, electricity, television cable or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility, service company, the Association or their agents to install and maintain facilities and equipment on the Property and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of Lots and Condominium Units. Notwithstanding anything to the contrary contained herein, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated except as initially programmed and approved by Declarant or

thereafter approved by the Board. This easement shall in no way affect any other recorded easements. Each Lot and Condominium Unit is subject to an easement to permit the Owner of the neighboring Lot or Condominium Unit to maintain and repair those portions of the neighboring Lot or Condominium Unit which are accessible only through such Lot or Condominium Unit. There shall be an access easement over the Common Area for the delivery and collection of the U.S. Mail. Each Lot and the Common Area shall be subject to an easement for encroachments created by construction, reconstruction, repair, shifting, settling, overhangs, and movement of any portion of the Property. A valid easement for such encroachments and for the maintenance of same, so long as they stand, shall and does exist. In the event any structure is partially or totally destroyed and then rebuilt, Owners agree that minor and reasonable encroachments on parts of the adjacent Lots or Condominium Units or the Common Area due to construction shall be permitted and that a valid easement for encroachment and the maintenance thereof shall exist. The Association and Declarant shall have an easement upon, across, over and under the Property and the Lots and Condominium Units to repair and maintain those areas and facilities described in paragraph 6.2.

9.3 Title to Common Areas. Declarant shall cause all Improvements to be completed and be in operation. No portion of the Common Area, including recreational facilities, parking spaces or other amenities, shall be subject to any lien or incumbrance, be leased to the Owners or the Association or be subjected to any other restriction in favor of Declarant or any affiliate.

9.4 Encumbrance. Subject to the provisions hereof, any Owner may encumber his Lot or Condominium Unit with or by a First Mortgage (and other liens, although the provisions hereof with respect to First Mortgages shall not apply to such other liens). It shall be the duty of each Owner whose Lot or Condominium Unit is encumbered by a First Mortgage to promptly notify the Association of the name and address of each First Mortgagee and the Association shall maintain a record of such First Mortgages. Each Owner shall promptly notify the Association of the release or discharge of any First Mortgage.

10. Damage or Destruction. In the event any Lot or Condominium Unit is damaged or destroyed from any cause, its Owner shall, within thirty days from the date of the occurrence of the damage or destruction, begin repair and rebuilding the Lot or Condominium Unit (and any damage to adjacent Lots or Condominium Units or property for which such Owner may be responsible) in a good workmanlike manner in conformance with the original plans and specifications used in the construction thereof; subject to such changes as are then required by applicable laws, ordinances and governmental rules and regulations, and shall complete same in a reasonable and expeditious manner not to exceed ninety days from the date of damage or destruction, except that such 90-day period shall be extended by the period of any delays resulting from occurrences or circumstances which are beyond the control of the Owner and his

contractor. Such repair and restoration shall be at the expense of the Owner, although the Board shall reimburse to the Owner any such expense covered by insurance proceeds, if any, received by the Association therefor. In the event such Owner refuses or fails to commence to repair and rebuild any and all such damage or destruction within the 30-day period or to complete within the 90-day period, the Association by and through its Board, at its option, is hereby irrevocably authorized by such Owner to undertake such repair and rebuilding in a good workmanlike manner in conformance with the original plans and specifications of the Lots and the then applicable law. The Owner shall then repay to the Association, upon demand, the amount actually expended for such repairs together with interest at the lesser of eighteen percent (18%) per annum or the highest lawful (usury) rate from the date of expenditure until paid. Each owner further agrees that charges for such repairs, if not paid within ten days after incurred, shall be delinquent and shall become a lien upon the Lot or Condominium Unit and the personal obligation of the Owner in the manner provided for assessments in paragraph 7. Such charges shall bear interest from the date of delinquency at the lesser of eighteen percent (18%) per annum or the highest lawful (usury) rate and shall constitute a debt collectible by the Association from the Owner through any lawful procedure. Each Owner vests in the Association, or its agents, the right and power to bring all actions against such Owner for the collection of such charges and to enforce the lien by all methods available for the enforcement of such liens, including those specified in paragraph 7, and such Owner grants to the Association a power of sale in connection with the lien. This lien shall be subordinate to the lien of any First Mortgage. Nothing contained herein shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be payable under any policy or policies.

11. Insurance.

11.1 General. The Association shall obtain and maintain in full force and effect at all times certain casualty, liability and other insurance as hereinafter provided. All such insurance shall be obtained, to the extent possible, from responsible companies duly authorized to transact business in the State of Arizona with a rating in Best's Insurance Reports of Class VI or better (or any comparable rating). Policies are unacceptable where (i) under the carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, the Owner, the First Mortgagee, or its insurer or guarantor; (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent any First Mortgagee, its insurer or guarantor, the Association, or any Owner from collecting insurance proceeds. The Association shall review all such insurance at least annually and shall increase the amounts thereof as it deems necessary or appropriate. To the extent possible, all insurance shall:

11.1.1 Provide for a waiver of subrogation by the insurer as to claims against the Association, its directors, officers, employees and agents, against each Owner and each owner's employees, agents and invitees; against each First Mortgagee of all or any part of the Property or of any Lot or Condominium Unit; and against any other person for whom the Association, any Owner or First Mortgagee may be so responsible;

11.1.2 Provide that the insurance cannot be unreasonably cancelled, invalidated or suspended on account of the conduct of the Association, its officers, directors, employees or agents; any Owner or such Owner's employees, agents or invitees; any First Mortgagee of all or any part of the Property or of any Lot or Condominium Unit; or any other person for whom the Association, any Owner or First Mortgagee may be responsible;

11.1.3 Provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance separately maintained by any Owner or First Mortgagee of all or any part of the Property or any Lot or Condominium Unit and that the insurance policy shall not be brought into contribution or proration with insurance maintained by any Owner or First Mortgagee of all or any part of the Property or any Lot or Condominium Unit;

11.1.4 Contain a standard mortgagee clause (without contribution) endorsement in favor of the First Mortgagee of Lot or Condominium Unit or all or any part of the Property and Common Area;

11.1.5 Provide that the policy of insurance shall not be terminated, cancelled or reduced in coverage as to amount or terms without at least ten (10) days' prior written notice to the Association, each Owner and each First Mortgagee covered by any standard mortgagee endorsement; and

11.1.6 Provide that the insurer shall not have the option to restore the Common Area if such Common Area is to be sold in accordance with the provisions of this Declaration.

To the extent possible, all such insurance shall provide for coverage of any cross-liability claims of Owners against the Association or other Owners and of the Association against Owners without right of subrogation.

Certificates of insurance coverage or copies of insurance policies shall be issued to and at the expense of each Owner and First Mortgagee who makes or on whose behalf written request is made to the Association for any such certificate or copy. Upon request of any First Mortgagee, the mortgagee clause of each insurance policy shall be endorsed in order to protect fully the interests of all First Mortgagees, their successors and assigns, including their respective insurers and guarantors, and the insurance

carrier shall be required to name the servicer of a First Mortgage or "(Name of Servicer) or assigns", as First Mortgagee.

The cost and expense of all insurance obtained by the Association, except insurance covering additions, alterations or improvements made to a Lot or Condominium Unit by an Owner or other insurance obtained at the request of and specifically benefiting any particular Owner, shall be a common expense subject to inclusion in the assessments pursuant to paragraph 7.

11.2 Casualty. The Association shall at all times maintain casualty and hazard insurance covering the Common Area and insuring against loss or damage by fire and the standard extended coverage casualties, including without limitation sprinkler leakage, earthquake, explosion, war risk, vandalism and malicious mischief and such other hazards as institutional lenders commonly require insurance against in the Phoenix, Arizona area, in each case if reasonably available, for the full 100% insurable replacement cost of all insurable property in the Common Area. Such insurance shall be increased from time to time if any as necessary to equal that commonly required by private institutional investors in the locale. All casualty and hazard insurance for the Common Area shall be written in the name, and the proceeds thereof shall be payable to, the Association as trustee for and for the benefit of the Owners and the First Mortgagee as their interests may appear.

11.3 Flood. In addition, if the Property is located in an area having special flood hazards, and a National Flood Insurance Association Standard Flood Insurance Policy is available (or if flood insurance is reasonably available under any successor program), such flood insurance shall be maintained as to the Common Area in the amount of the maximum limit of coverage reasonably available.

11.4 Public Liability. The Association shall obtain and maintain comprehensive public liability and property damage insurance covering all of the Common Area, including wrongful death, bodily injury, property damage liability and automobile bodily injury and property damage coverages. Each owner shall also be insured with respect to any liability arising out of the ownership, maintenance, repair, condition or operation of the Common Area. Any such insurance must contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners. The coverage under such policy shall be for at least One Million Dollars (\$1,000,000.00) per occurrence for personal injury and/or property damage (single limit coverage). The scope and amount of such insurance shall include these and all other coverages in kinds and amounts commonly required for projects similar in construction, location and use by institutional lenders in the Phoenix, Arizona area.

11.5 Workmen's Compensation. The Association shall obtain and maintain workmen's compensation and employer's liability insurance on employees of the Association as may be necessary to comply with applicable laws.

11.6 Owners. Except to the extent coverage therefor may be obtained by the Association and be satisfactory to an Owner, each Owner shall be free to and shall be responsible for obtaining such additional or other insurance as such Owner deems desirable, including insurance covering his Lot or Condominium Unit, its Improvements and personal property and covering personal liability of an Owner and any employees, agents and invitees and any other person for whom such owner may be responsible. Any insurance policy obtained by an Owner must not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and must, to the extent possible, contain a waiver of the rights of subrogation by the insurer as to any claim against the Association, its officers, directors, agents and employees; against other Owners and their employees, agents and invitees; against any First Mortgagee of all or part of the Property or any Lot or Condominium Unit; and against any other person for whom the Association or any such Owner or First Mortgagee may be responsible.

11.7 Receipt and Application of Insurance Proceeds. Except as some particular person shall have a legal right to receive insurance proceeds directly, all insurance proceeds and recoveries under policies maintained by the Association shall be paid to and received by the Association. The Association shall have the right, acting alone, to adjust or settle any claim by it under any insurance maintained by it. All insurance proceeds or funds received by the Association shall be applied in accordance with the following priorities: first, as expressly provided in this Declaration; second, to such persons in such amounts as the Association may determine are legally or equitably entitled thereto; and third, the balance, if any, to the Owners and First Mortgagees in the manner elsewhere provided for distributions to the Owners.

11.8 Fidelity Bonding. The Association shall obtain and maintain bonds under which the Association is the named insured covering all persons or entities which handle or are responsible for funds of or administered by the Association, including without limitation officers, directors, trustees and employees of the Association and volunteers and officers, employees or agents of any professional manager of the Association, in amounts not less than the greater of (i) three months' regular assessments on all Owners plus reserve funds or (ii) the estimated maximum of funds, including reserve funds in the custody of the Association at any time during the term of such bond. In addition, such bond shall (i) name the Association as an obligee; (ii) contain waivers by the issuer of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; and (iii) provide that it may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days'

prior written notice to the Association and to any insurance trustee and each Mortgage servicer on any Unit on behalf of any lender and its insurer or guarantor, as applicable.

11.9 Other Insurance. The Association shall also have the power and authority to obtain and maintain other and additional insurance coverage including, but not limited to, casualty insurance covering personal property of the Association and insurance covering employees and agents of the Association and insurance indemnifying officers, directors, employees and agents of the Association.

11.10 FNMA, FHLMC, VA, and HUD Requirements. Notwithstanding any provision of this paragraph, if at any time any portion of the Property is covered by mortgages or deeds of trust which are required in writing by the holder thereof to qualify for further sale thereof to the Federal National Mortgage Association ("FNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC") (or any successor to either of such corporations which performs its present function) or for mortgage insurance by the U.S. Department of Housing and Urban Development ("HUD") or for guaranty by the Veterans Administration ("VA"), the Association shall at all times carry all insurance in such amounts and containing all provisions as are required from time to time by FNMA, FHLMC, VA, or HUD to be maintained unless such coverage is unavailable. The Association shall furnish to FNMA, FHLMC, VA, HUD, or any First Mortgagee requesting the same in writing any claim or notification of damage or other loss covered by any of the types of insurance provided for in this paragraph.

12. Rights of First Mortgagees. Notwithstanding and prevailing over any other provision of this Declaration, the Articles or the Bylaws, the following rights are granted to all First Mortgagees:

12.1 Priority. Each and every lien created by or pursuant to this Declaration including, but not limited to, the liens described in paragraph 7 is and shall be subordinate, inferior and subject to the lien and charge of First Mortgages. No provision in this Declaration relating to costs, use, set-back, minimum-size, building materials, architectural, aesthetic or similar matters shall be construed to provide for reversion or foreclosure of title to a Lot or Condominium Unit in the event of violation thereof. No breach or violation of any provision of this Declaration shall affect, impair, defeat or render invalid the interest or lien of any First Mortgagee.

12.2 Limitations on Actions. During any period(s) of time that any Lot or Condominium Unit shall be subject to any First Mortgage, unless fifty-one percent (51%) of all First Mortgagees have given their prior written approval, neither the Association, the Declarant nor any Owner or Owners shall be entitled to:

12.2.1 By act or omission seek to abandon, partition, subdivide, encumber, sell, alienate, release, hypothecate or otherwise transfer the Common Area (except that the granting of easements for public utilities or for other public purposes

consistent with the intended use of such Common Area by the Association and Owners shall not be deemed a transfer within the meaning of this provision);

12.2.2 Change the formula for determining the obligations, assessments, dues or other charges which may be levied against or for determining the proceeds to be distributed among the Owners of Lots, Condominium Units or other portions of the Property;

12.2.3 Fail to maintain fire and extended coverage insurance on insurable property within the Common Area on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement cost);

12.2.4 Use any hazard insurance proceeds for losses to any portion of the Property for other than the repair, replacement or reconstruction of such property; or

12.2.5 By act or omission seek to abandon, rescind or terminate this Declaration.

12.3 Payment of Charges. All First Mortgagees, jointly or singly, may (but shall not be required to) pay taxes or other charges and assessments which are in default on account of a failure to make payments by any Owner or by the Association and which may or have become a charge or lien against any Common Area, and may (but need not) pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of any such policy, insuring the Common Area or any part thereof. Any First Mortgagee making any such payment shall be entitled to immediate reimbursement for such payments from the Association, which may collect such sums in turn from the Owners pursuant to paragraph 7 hereof.

12.4 Notification. Any First Mortgagee or insurer or governmental guarantor of a First Mortgage shall be entitled upon written request to the Association to receive written notification from the Association of: (i) any default by the Mortgagor under such First Mortgage in the performance of such Owner's obligations under this Declaration which is not cured within thirty (30) days; (ii) the commencement of any condemnation proceedings against all or any part of the Property; (iii) any substantial damage to or destruction of any part of the Property; (iv) any lapse, cancellation or material modification of any insurance policy of fidelity bond which the Association is required to maintain hereunder; and (v) any proposed action by the Association or the Owners which would require the consent of a specified portion of First Mortgagees pursuant to any provision of this Declaration. All First Mortgagees shall have the right upon written request: (i) to inspect all books and records of the Association during normal business hours; (ii) to receive annual financial reports from the Association as soon as available and in any event within ninety (90) days following the end of any fiscal year of the Association; and (iii) to receive written notice of all meetings of the

members of the Association and to designate a representative to attend all such meetings.

12.5 First Refusal. The right of an Owner or First Mortgagee to sell, transfer or otherwise convey his Lot or Condominium Unit shall not be subject to any right of first refusal or similar restriction in favor of the Association or others and no provision herein shall be construed to impair the rights of a First Mortgagee to foreclose or take title to a Lot or Condominium Unit pursuant to the remedies provided in the First Mortgage, or to accept a deed in lieu of foreclosure in the event of a default by an Owner, nor shall any provision interfere with a subsequent sale or lease of any Lot or Condominium Unit acquired by foreclosure by any First Mortgagee.

12.6 Exoneration. A First Mortgagee shall not in any case or manner be personally liable for the payment of any assessment or charge which became due prior to the time such First Mortgagee took title to any Lot or Condominium Unit, nor the observance or performance of any covenant, restriction, regulation, rule, the Articles or Bylaws or any management agreement, except for those matters which are enforceable by injunctive or other equitable actions not requiring the payment of money.

12.7 Assessments. At such time as the First Mortgagee shall become record Owner of a Lot or Condominium Unit, the First Mortgagee shall become subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay for all assessments and charges accruing thereafter in the same manner as any other Owner.

12.8 Foreclosure. The First Mortgagee, or any other party acquiring title to a mortgaged Lot or Condominium Unit through foreclosure of the First Mortgage, shall acquire title free and clear of any lien authorized by or arising out of any of the provisions of this Declaration which secured the payment of any assessment or charges accrued prior to the final conclusion of any such foreclosure proceedings, including the acquisition of title and the expiration of any period of redemption. Any such unpaid assessment or charge against the Lot or Condominium Unit foreclosed shall be deemed to be a Common Expense charged proratably against all of the Lots and Condominium Units. Notwithstanding the foregoing, however, in the event the Owner against whom the original assessment was made is the purchaser or redemptioner, the lien shall continue in effect and the lien may be enforced by the Association or by the Board for the Association for the respective assessment that was due prior to the final conclusion of any foreclosure proceedings. Further, any such unpaid assessment shall nevertheless continue to exist as the personal obligation of the defaulting Owner to the Association, and the Board may use reasonable efforts to collect the same from the Owner even after he is no longer a member of the Association.

12.9 Insurance and Condemnation Proceeds. Nothing in this Declaration shall be construed to give any Owner, the Association or any other party any priority over

any First Mortgagee of any Lot or Condominium Unit concerning any distribution of any insurance proceeds or condemnation awards arising from damage to or a taking of all or part of the Common Area or any Lot or Condominium Unit. The lien priority of a First Mortgagee shall not be disturbed by any loss, damage or destruction and shall continue in all condemnation awards and all insurance proceeds payable with respect to all or any part of the Property.

12.10 Additional Land. No additional land shall be annexed to the Property subject to this Declaration or dedicated as a Common Area without the written approval of FNMA, FHLMC, VA, and/or HUD, in addition to any other consents and approvals which may be required under the paragraph pertaining to amendments.

13. Destruction, Condemnation or Obsolescence of the Common Area.

13.1 Definitions. The following terms shall have the following definitions:

13.1.1 "Substantial Destruction" shall exist whenever the Board of Directors of the Association determines that, as a result of any casualty, damage or destruction to the Common Area or any portion thereof, the excess of estimated costs of Restoration (as herein defined) over Available Funds (as herein defined) is fifty percent (50%) or more of the estimated Restored Value of the Common Area (as herein defined). "Partial Destruction" shall mean any other casualty, damage or destruction of the Common Area or any part thereof.

13.1.2 "Substantial Condemnation" shall exist whenever the Board of Directors of the Association determines that a complete taking of the Common Area has occurred or that a complete taking of the Common Area by condemnation or eminent domain or by grant or conveyance in lieu of condemnation or eminent domain has occurred, and that the excess of the estimated costs of Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Common Area. "Partial Condemnation" shall mean any other such taking by eminent domain or by grant of conveyance in lieu of eminent domain.

13.1.3 "Substantial Obsolescence" shall exist whenever the Board of Directors determines that the Common Area has reached such a state of obsolescence or disrepair that the excess of estimated costs of Restoration over Available Funds is fifty percent (50%) or more of the estimated Restored Value of the Common Area. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

13.1.4 "Restoration" shall mean restoration of the Common Area to a condition the same or substantially the same as the condition in which it existed prior to the casualty, damage or destruction in accordance with this Declaration and the original plans and specifications therefor, to the extent permitted by then current building

codes, except that, in the case of Condemnation or Obsolescence, such additional alterations of the original plans and specifications shall also be permitted as are required as a result of such taking or in order to correct such condition of Obsolescence.

13.1.5 "Restored Value of the Common Area" shall mean the value of the Common Area after restoration.

13.1.6 "Available Funds" shall mean any proceeds of insurance or condemnation awards or payment in lieu of condemnation and any uncommitted income or funds of the Association other than the income or funds derived through assessments or special assessments. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any party other than the Association, including a Mortgagee of all or any part of the Common Area, or that portion of any condemnation award or payment in lieu of condemnation payable to any owner for the condemnation or taking of that Owner's Property.

13.2 Restoration of the Common Area. Restoration of the Common Area shall be undertaken by the Association without a vote of the members in the event of Partial Destruction, Partial Condemnation or Partial Obsolescence. In the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence, such Restoration shall be undertaken unless the Declarant, if Declarant is then a member, and at least two-thirds (2/3) of the members other than the Declarant have consented in writing to such non-restoration and to the use of any such proceeds or awards for a purpose other than restoration of the Common Area. Before the vote or consent of any member who is an Owner of Property subject to a Mortgage is effective, the First Mortgagee of such Property shall also have consented in writing to such non-restoration or non-use.

13.3 Sale of the Property. In the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence, and if the requisite consent of members and First Mortgagees to non-restoration is obtained, the Common Area shall be sold except for those portions of the Common Area which remain desirable and which are independent of the destroyed, condemned or obsolete portion. In the event of such sale, the proceeds of sale and any insurance proceeds, condemnation awards or payments in lieu of condemnation shall be distributed by the Association to the members in proportion to their voting powers (without trebling the voting power of the Class B member, if any), or in the case of members who are Owners of property which has been mortgaged, jointly to such Owner and Mortgagee.

13.4 Authority of Association to Restore or Sell. The Association, as attorney-in-fact for each member, shall have full power and authority to restore or to sell the Common Area whenever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale, as the case may be.

13.5 Special Assessments for Restoration. Whenever Restoration is to be undertaken, the Association may levy and collect assessments pursuant to paragraphs 4.1 through 4.4 hereof to cover the costs and expenses of Restoration to the extent not covered by Available Funds.

13.6 Receipt and Application of Condemnation Funds. Except as herein provided, all compensation, damages or other proceeds constituting awards in condemnation or eminent domain on account of any taking of the Common Area shall be payable to the Association. The Association shall have the right, acting alone, to adjust or settle any award payable to it. Such award shall be applied to costs and expenses of Restoration, if undertaken, and, to the extent not applied, shall be apportioned among all the members and their Mortgagees in the proportions herein provided for the payment of other distributions among the members. The lien priority of any Mortgagee shall not be disturbed by any condemnation proceeding and shall continue in the proceeds of any condemnation award attributable to the portion of the Property subject to such Mortgage in accordance with the provisions of this paragraph.

14. Allocation of Distributions. Except as may be elsewhere herein expressly provided, in the event that any Owners are entitled to receive any distribution of money, property or other things from the Association for any reason, including without limitation the sale or other disposition of all or any part of the Common Area, such distribution shall be made to the Owners in the same proportion as the Assessment Rate, as defined in and calculated in accordance with the provisions of paragraph 7.6 of this Declaration.

15. General Provisions.

15.1 Enforcement. The provisions of this Declaration shall run with the land and shall be binding upon all persons purchasing, owning, leasing, subleasing, occupying or otherwise having any right, title or interest in any of the Property, their heirs, executors, administrators, successors, grantees and assigns. After the date on which this Declaration has been recorded, this Declaration may be enforced by any one or more of the following: the Declarant, the Association, the Board, the Owner or Owners of any Lot or Condominium Unit or the First Mortgagees. In the event that any member, Owner, guest, tenant or other person upon any portion of the Property shall fail to comply with the provisions of this Declaration, the Articles, the Bylaws or The Association Rules, the Association shall have each and all of the rights and remedies provided for in this Declaration, the Articles, the Bylaws or said Association Rules or which may be available at law or in equity and may prosecute any action or other proceeding against such person for enforcement of such provisions, foreclosure of its lien, if applicable, appointment of a receiver, damages, injunctive relief, specific performance, judgment for payment of money and collection thereof, or to sell the unit or other portion of the Property owned by such person as provided in paragraph 7.8 of this Declaration, or any combination of such remedies or any other and further relief

which may be available at law or in equity, all without notice and without regard to the solvency of such person or the value of any portion of the Property owned by him or her. The proceeds of any sale shall first be applied to discharge court costs, other litigation costs, including without limitation reasonable attorneys' fees, and all other expenses of the proceeding or sale. The remainder of such proceeds shall be applied first to the payment of any unpaid assessments or other charges and the satisfaction of any other sums or damages, and any balance shall then be paid to the person or persons legally entitled thereto. All expenses of the Association in connection with any such action or proceeding, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of ten percent (10%) per annum until paid, shall be charged to and assessed against such person. In the event of any breach by any Owner, the Association shall also have the authority, with or without legal proceedings and with or without notice to such Owner, to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such owner. Any and all rights and remedies of the Association may be exercised at any time and from time to time, cumulatively or otherwise. Nothing herein shall be deemed to suggest that damages at law constitute an adequate remedy for violations hereof. Prior to initiating legal action to enforce this Declaration against Declarant or the Association or the Board, an Owner or First Mortgagee shall notify Declarant or the Board in writing of the grievance and nature of any asserted violation hereof by the Declarant or the Association or the Board and Declarant or the Association shall have fifteen (15) days thereafter within which to cure or eliminate such violation by it. The Declarant or the Association shall have the right, but not the obligation, to enforce the provisions of this Declaration against any person. All instruments of conveyance of any interest in all or any part of a Lot or Condominium Unit may but need not incorporate by reference the provisions of this Declaration; however, all of the terms and conditions of this Declaration shall be binding upon all persons affected by its terms, regardless of whether referenced in the deed or other instrument of conveyance. Without limiting the generality of the foregoing, each and all of such covenants, conditions, restrictions, reservations and servitudes shall be binding upon and effective against any Owner whose title is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

15.2 Waiver or Abandonment. No person entitled to enforce any provision of this Declaration shall be deemed to have waived such right except by an unambiguous written waiver executed by such person. The waiver of or failure to enforce any provision of this Declaration shall not be deemed to be a waiver or abandonment of such provision or a waiver of the right to enforce any subsequent breach or violation of such provision. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these Restrictions) had knowledge of the breach or violation. No provision of this Declaration shall be deemed to have been waived or abandoned unless this Declaration is amended to delete such provision. Without

limiting the foregoing, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions thereof.

15.3 Equal Protection. These Restrictions shall be applied to all similarly situated Owners without discrimination because of race, creed, color, national origin, sex or age.

15.4 Severability. The invalidity of any one or more provisions 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 provisions should be invalid or should operate to render this Declaration invalid, this Declaration shall be construed as if such invalid provision had not been inserted.

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

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

15.7 Amendment. The provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed by at least seventy-five percent (75%) of the Owners and acknowledged; provided, however, that before the signature of any Owner whose portion of the Property is subject to a Mortgage shall be effective, the First Mortgagee of such Property shall also have consented to such change, modification or rescission, which consent shall not be unreasonably withheld; and further provided that so long as there is a Class B member any such amendment shall also have been approved, as necessary or required, by FNMA, FHLMC, VA, and HUD; and further provided that no such amendment shall be effective to limit or restrict any right, power, exemption, privilege or easement provided to the Declarant herein or to increase any obligation or liability of the Declarant unless such amendment is also approved by the Declarant.

Notwithstanding the provisions of the foregoing paragraph, if this Declaration, the Articles or the Bylaws require the consent or agreement of any greater portion of the Owners for any amendment or other action specified in this Declaration, then any instrument so changing, modifying or rescinding this Declaration or any provision hereof with respect to such action shall be approved by such specified percentage of the Owners, as well as the Declarant and any First Mortgagees, FNMA, FHLMC, VA, and HUD, or any other persons required by the foregoing paragraph.

Anything to the contrary herein notwithstanding, so long as the Declarant is a member, Declarant reserves the right to amend this Declaration in any manner which may be specifically required by FNMA, FHLMC, VA or HUD. Further, and notwithstanding any other provision of this paragraph 15.7, so long as Class B Membership exists, the Declarant reserves the right to amend this Declaration without the approval of the Board or the Members or any First Mortgagee or other third party; provided, however, that no such amendment shall have the effect of changing the Plat of an Owner's Lot without the consent of the Owner or changing the pro rata interest or obligations of any Lot or Condominium Unit for the purpose of levying assessments or charges or allocating distribution of hazard insurance proceeds or compensation awards without the approval of the Members as otherwise provided in this Declaration.

Any change, modification or rescission accomplished under any of the provisions of this paragraph shall be effective upon recording of the instrument providing therefor signed and acknowledged by all persons whose signatures, approval or consent is required by this paragraph.

15.8 Notices. Notices provided for in this Declaration, the Articles or the Bylaws shall be in writing and shall be mailed postage prepaid, if to the Association, addressed to the address to which payments of assessments are then sent, if to an Owner to his address as shown in the records of the Association and if to a First Mortgagee to the address specified in the request for such notice, if any, or if none to any office of such First Mortgagee. Any Owner or First Mortgagee may designate a different address or addresses for notices to him by giving written notice of his change of address to the Association. Notices addressed as above provided shall be deemed delivered when deposited properly addressed in the United States mail, postage prepaid.

15.9 Percentage of Certain Persons. Whenever this Declaration refers to a certain percentage or proportion of the Owners or First Mortgagees, it shall be deemed to refer, in the case of Owners to Owners holding that percentage of the voting rights (without trebling the voting rights of the Class B member, if any) and in the case of First Mortgagees to First Mortgagees of that percentage of the Single Family Residences.

15.10 Perpetuities. If any of the options, privileges, covenants, interests or rights created by this Declaration would otherwise be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue until twenty-one (21) years after the death of the last survivor of the now living descendants of the President of the United States, George W. Bush, or the Governor of Arizona, Janet Napolitano.

IN WITNESS WHEREOF, the undersigned has executed this instrument by its duly authorized Members this 31st day of August, 2005.

BLIVEN INVESTMENTS LLC, an Arizona limited liability company ("Declarant")

By Jonathan Bliven
Jonathan Bliven, Member

By Lynda Bliven
Lynda Bliven, Member

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me this 31st day of August, 2005, by Jonathan Bliven and Lynda Bliven, as authorized Members of Bliven Investments LLC, an Arizona limited liability company.

Mary L. Garcia
Notary Public

My Commission Expires:

