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DECLARATION OF HORIZONTAL  
PROPERTY REGIME  
AND  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WINDSOR GARDENS

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DECLARATION OF HORIZONTAL PROPERTY REGIME  
AND  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR WINDSOR GARDENS

THIS DECLARATION is made on the date hereinafter set forth by George C. Knoll and Richard B. Jordan (hereinafter collectively referred to as "DECLARANT").

WHEREAS, DECLARANT is the owner of the real property situated in Maricopa County, Arizona, which is described on Exhibit A attached hereto, together with all buildings and improvements located thereon; and

WHEREAS, DECLARANT desires to submit the land described on Exhibit A attached hereto, together with all buildings, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or pertaining thereto to a Horizontal Property Regime pursuant to Sections 33-551 through 33-561, Arizona Revised Statutes, as same may be amended; and

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WHEREAS, DECLARANT further desires to establish, for its own benefit, and for the mutual benefit of all future owners, lienholders, occupants, or other holder of an interest in the CONDOMINIUM, or any part thereof, certain easements and rights, and certain mutually beneficial covenants, restrictions and obligations with respect to the proper use, conduct and maintenance of the CONDOMINIUM; and

WHEREAS, DECLARANT desires and intends that the owners, mortgagees, beneficiaries and trustees under trust deeds, occupants and other persons hereafter acquiring any interest in the CONDOMINIUM shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights, easements, privileges, covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of the CONDOMINIUM and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the CONDOMINIUM;

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NOW, THEREFORE, pursuant to Sections 33-551 through 33-561, inclusive, Arizona Revised Statutes, DECLARANT hereby submits the land described on Exhibit A attached hereto, together with all buildings, improvements and other permanent fixtures of whatsoever kind thereon, and all rights and privileges belonging or pertaining thereto to a Horizontal Property Regime to be known as Windsor Gardens and hereby declares that all the CONDOMINIUM shall be subject to these covenants, conditions and restrictions and shall be held, conveyed, mortgaged, encumbered, leased, rented, occupied, improved and used subject to the following restrictions, covenants, conditions, easements and equitable servitudes. The restrictions set forth in this DECLARATION shall run with the CONDOMINIUM, shall be binding upon all persons having or acquiring any right, title or interest in the CONDOMINIUM, or any part thereof, shall inure to the benefit of every portion of the CONDOMINIUM, and any interest therein, shall inure to the benefit of and be binding upon any successor in interest of DECLARANT and of each OWNER and may be enforced by DECLARANT, by any OWNER or their successors in interest or by the ASSOCIATION.

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## ARTICLE I

## DEFINITIONS

Section 1.0. "ANNEXABLE PROPERTY" shall mean the real property located in Maricopa County, Arizona, which is described on Exhibit B attached to this DECLARATION together with all buildings and other IMPROVEMENTS located thereon and all easements, rights and appurtenances belonging thereto.

Section 1.1. "ARCHITECTURAL COMMITTEE" shall mean the committee established pursuant to Section 6.3 of this DECLARATION.

Section 1.2. "ARCHITECTURAL COMMITTEE RULES" shall mean the rules adopted by the ARCHITECTURAL COMMITTEE, as the same may be amended from time to time.

Section 1.3. "ARTICLES" shall mean the Articles of Incorporation of the ASSOCIATION, as the same may be amended from time to time.

Section 1.4. "ASSOCIATION" shall mean and refer to the Windsor Gardens, Inc., an Arizona nonprofit corporation, its successors and assigns.

Section 1.5. "ASSOCIATION RULES" shall mean the rules and regulations adopted <sup>Unofficial Document</sup> by the ASSOCIATION, as the same may be amended from time to time.

Section 1.6. "BOARD" shall mean the Board of Directors of the ASSOCIATION.

Section 1.7. "BUILDING" shall mean and refer to the structures designated as buildings on the PLAT.

Section 1.8. "BYLAWS" shall mean the Bylaws of the ASSOCIATION, as the same may be amended from time to time.

Section 1.9. "COMMON EXPENSES" shall mean expenditures made or liabilities incurred by or on behalf of the ASSOCIATION, together with any allocations to reserve.

Section 1.10. "CONDOMINIUM" shall mean the real property located in Maricopa County, Arizona, which is described in Exhibit A attached to this DECLARATION, and any portion of the ANNEXABLE PROPERTY which is annexed by the DECLARANT pursuant to Article XII of this DECLARATION,

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together with all buildings and other IMPROVEMENTS located thereon and all easements, rights, and appurtenances belonging thereto.

Section 1.11. "CONDOMINIUM DOCUMENTS" shall mean this DECLARATION and the ARTICLES, BYLAWS, ASSOCIATION RULES and ARCHITECTURAL COMMITTEE RULES.

Section 1.12. "DECLARANT" shall mean George C. Knoll and Richard B. Jordan, their heirs and successors and any person or entity to whom they may expressly assign their rights under this DECLARATION.

Section 1.13. "DECLARATION" shall mean this entire document, as the same may be amended from time to time.

Section 1.14. "ELIGIBLE INSURER OR GUARANTOR" shall mean an insurer or governmental guarantor of a FIRST MORTGAGE who has requested notice of certain matters in accordance with Section 13.0 of this DECLARATION.

Section 1.15. "ELIGIBLE MORTGAGE HOLDER" shall mean a FIRST MORTGAGEE who has requested notice of certain matters from the ASSOCIATION in accordance with Section 13.0 of this DECLARATION.

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Section 1.16. "FIRST MORTGAGE" shall mean and refer to any mortgagee or deed of trust with first priority over any other mortgage or deed of trust.

Section 1.17. "FIRST MORTGAGEE" shall mean and refer to the holder of any FIRST MORTGAGE.

Section 1.18. "GENERAL COMMON ELEMENTS" shall mean the entire CONDOMINIUM except for the UNITS.

Section 1.19. "IMPROVEMENT" shall mean all physical structures, including, but not limited to, buildings, private drives, parking areas, fences, walls, and landscaping, including, but not limited to, hedges, plantings, trees and shrubs of every type and kind.

Section 1.20. "LIMITED COMMON ELEMENTS" shall mean any portion of the GENERAL COMMON ELEMENTS designed for the use of the OWNERS of more than one but less than all of the UNITS.

Section 1.21. "MEMBER" shall mean any person, corporation, partnership, joint venture or other legal entity who is or becomes a member of the ASSOCIATION.

Section 1.22. "OWNER" shall mean the record owner, whether one or more persons or entities, of beneficial

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or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a UNIT. OWNER shall not include (i) the purchaser of a UNIT under an executory contract for the sale of real property, (ii) persons or entities having an interest in a UNIT merely as security for the performance of an obligation, or (iii) a lessee or tenant of a UNIT. In the case of UNITS the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the OWNER. In the case of UNITS the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement the beneficiary of any such trust shall be deemed to be the OWNER.

Section 1.23. "PLAT" shall mean (a) the Horizontal Property Regime Map for Windsor Gardens, which map has been recorded with the County Recorder of Maricopa County, Arizona, in Book 256 of Maps, page 25, and any amendments thereto, insofar as said Map covers the real property described on Exhibit A attached hereto and any portion of the ANNEXABLE PROPERTY which is annexed by the DECLARANT pursuant to Article XII of this DECLARATION, and (b) any other horizontal property regime map, plat or condominium map, and any amendments thereto, recorded against all or any portion of the real property <sup>Unofficial Document</sup> described on Exhibit A attached hereto and any portion of the ANNEXABLE PROPERTY which is annexed by the DECLARANT pursuant to Article XII of this DECLARATION.

Section 1.24. "PURCHASER" means any person, other than the DECLARANT, who by means of a voluntary transfer acquires a legal or equitable interest in a UNIT, other than (a) a leasehold interest (including renewable options) of less than five years, or (b) as security for an obligation.

Section 1.25. "RESTRICTED COMMON ELEMENTS" shall mean those portions of the GENERAL COMMON ELEMENTS that are reserved for the exclusive use of the OWNER of one UNIT in accordance with Section 2.6 of this DECLARATION.

Section 1.26. "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 persons not all so related, together with their domestic servants, who maintain a common household in a UNIT.

Section 1.27. "UNIT" shall mean a portion of the CONDOMINIUM which is intended for separate fee ownership and is not intended to be owned in common with the other OWNERS

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of UNITS in the CONDOMINIUM. A UNIT shall be an "Apartment" within the meaning of the Arizona Horizontal Property Regime Act, Arizona Revised Statutes, §§33-551 et seq. The number of each UNIT is shown on the PLAT. The boundaries of each UNIT are the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and each UNIT includes both the portions of the BUILDING and the air-space encompassed within the boundaries of the UNIT. Each UNIT shall also include the range, dishwashers, garbage disposal units and other built-in household appliances lying within said boundaries. The following shall not be considered part of a UNIT: bearing walls, columns, vertical supports, floors, roofs, foundations, patio walls and fences, pipes, ducts, flues, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the UNIT. No structural part of a BUILDING and no part of a UNIT forming a part of any systems serving one or more other UNITS or the GENERAL COMMON ELEMENTS shall be deemed or construed to be part of a UNIT.

Section 1.28. "UNIT ESTATE" shall mean a UNIT together with an undivided interest in the GENERAL COMMON ELEMENTS as set forth in Section 2.5 of this DECLARATION and the right to the exclusive use of the RESTRICTED COMMON ELEMENTS reserved for the exclusive use of the UNIT under Section 2.6 of this DECLARATION.

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## ARTICLE II

## DESCRIPTION OF HORIZONTAL PROPERTY REGIME

Section 2.0. Description of the Project. The Horizontal Property Regime shall be comprised of a total of twelve (12) UNITS which are numbered on the PLAT as UNITS 17 through 14, inclusive, and UNITS 57 through 60, inclusive. The number of UNITS within the Horizontal Property Regime may be increased by the annexation of all or any part of the ANNEXABLE PROPERTY pursuant to Article XII of this DECLARATION.

Section 2.1. Description of the Cubic Content Space of Each Building. The cubic content space of each BUILDING with reference to its location on the land is described on the PLAT. The boundaries of each BUILDING shall be the exterior of the outside walls of said BUILDING, except that where there are patios extending beyond the exterior of the outside walls, the boundaries of each BUILDING shall be the plane of the outer edge of the exterior walls surrounding said patios or the plane of the boundary lines shown on the PLAT for said patios, which extend outward farthest from the exterior walls of said BUILDING. The upper and lower boundaries of the BUILDING shall be as shown on the PLAT.

Section 2.2. Description of the Cubic Content Space of Each Unit. Unofficial Document The cubic content space of each UNIT and of each area of the CONDOMINIUM subject to individual ownership and exclusive control is set forth on the PLAT.

Section 2.3. Description of General Common Elements. The GENERAL COMMON ELEMENTS shall include all of the CONDOMINIUM except for the UNITS. The GENERAL COMMON ELEMENTS shall include, but not be limited to, the land upon which the UNITS are located, the BUILDINGS, all exterior and bearing walls, columns, floors, ceilings and roofs, slabs, halls, lobbies, stairways, entrance and exit ways, all recreational facilities, pumps, landscaping, pavements, parking spaces, private drives, all waste, water and gas pipes, ducts, conduits, wires, drainage lines, or other utility and installation meters and lines, all central or common heating and air conditioning units and facilities, compartments or installations of central services for public utilities, reservoirs, water tanks and pumps servicing more than one UNIT, the foundations of the UNITS, the foundations of the BUILDINGS, and all other devices and premises designated for common use or enjoyment by more than the OWNER of a single UNIT.

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Section 2.4. Description of the Cubic Content Space of Limited Common Elements. There are no LIMITED COMMON ELEMENTS within the CONDOMINIUM.

Section 2.5. Fractional Interest. Each UNIT shall bear a one-twelfth (1/12) fractional interest to the entire horizontal property regime created by this DECLARATION, which fractional interest shall constitute an undivided interest in the GENERAL COMMON ELEMENTS. In the event the DECLARANT annexes all or any portion of the ANNEXABLE PROPERTY, the fractional interest of each UNIT in the GENERAL COMMON ELEMENTS shall be adjusted by the DECLARANT in accordance with the provisions of section 12.0 of this DECLARATION.

Section 2.6. Restricted Common Elements. Ownership of a UNIT shall entitle the OWNER thereof to the exclusive use of the following portions of the GENERAL COMMON ELEMENTS subject to such rules and regulations regarding the use and maintenance of such areas as may be adopted by the BOARD:

(a) The covered parking space designated on the PLAT by the letters "CP" followed by the same number as the UNIT;

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(b) The patio or balcony adjoining the UNIT and designed for the use of the OWNER or occupant of the UNIT and to which there is access from the UNIT. The CONDOMINIUM shall consist of a Type A UNITS and Type B UNITS. The PLAT contains the floor plans for the Type A and Type B UNITS. As shown on the floor plans, all Type A UNITS will have one patio and all Type B UNITS shall have two balconies.

(c) Any parking spaces assigned to the exclusive use of the UNIT by the BOARD pursuant to Section 2.8 of this DECLARATION.

(d) All shutters, awnings, window boxes, doorsteps, stoops, porches, entry ways and all exterior doors and windows or other fixtures designed to serve a single UNIT but which are located outside the boundaries of the UNIT.

The right to the exclusive use of the RESTRICTED COMMON ELEMENTS shall not be transferred, assigned or conveyed separate or apart from the UNIT. In the event a UNIT is conveyed, the right to the exclusive use of the RESTRICTED COMMON ELEMENTS shall automatically be transferred to the new OWNER. Any lien, including, but not

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limited to, the lien of a mortgage or a deed of trust, arising against a UNIT, shall also be a lien against the OWNER'S right of exclusive use of the RESTRICTED COMMON ELEMENTS, and the foreclosure of a mortgage upon the UNIT, or the taking of a deed in lieu thereof, or a trustee's sale under a deed of trust or any other proceeding for foreclosing liens on a UNIT shall carry with it and transfer to the foreclosing party or the PURCHASER at any sheriff's sale or trustee's sale the exclusive use of the RESTRICTED COMMON ELEMENTS. Partial or full satisfaction or release of any such lien upon a UNIT shall similarly be a satisfaction and release of the lien against the right to the exclusive use of the RESTRICTED COMMON ELEMENTS.

Section 2.7. Prohibition of Severance or Partition of a Unit Estate. No OWNER shall be entitled to sever his interest in his UNIT from his undivided interest in the GENERAL COMMON ELEMENTS, his right to the use of RESTRICTED COMMON ELEMENTS and his right and easement to the use and enjoyment of the GENERAL COMMON ELEMENTS. The undivided interest in the GENERAL COMMON ELEMENTS as established by this DECLARATION and the fee title to their respective UNITS shall not be separated, severed, partitioned or separately conveyed, encumbered or otherwise transferred, and each such undivided interest in the GENERAL COMMON ELEMENTS shall conclusively be deemed transferred or encumbered with the UNIT to which it is appurtenant even though the description in the instrument of conveyance<sup>Unofficial Document</sup> or encumbrance may refer only to the UNIT. The provisions of Arizona law relating to partition of real property shall not be available to any OWNER of a UNIT or of any other interest in real property included in the CONDOMINIUM as against any other OWNER or OWNERS of UNITS or of any other interest in the CONDOMINIUM so as to terminate the Horizontal Property Regime created by the recording of this DECLARATION; provided however, that nothing contained in this DECLARATION shall be construed as a limitation on partition by joint OWNERS of one or more UNITS as to individual ownership of such UNIT without terminating the Horizontal Property Regime, or as to ownership of such UNIT and real property outside the limits of the Horizontal Property Regime. Nothing contained in this section shall be construed to preclude an OWNER of a UNIT from creating a co-tenancy in the ownership of a UNIT with any other person or persons.

Section 2.8. Unassigned Parking Spaces. Parking spaces in the CONDOMINIUM not reserved to the exclusive use of a UNIT under Section 2.6(b) of this DECLARATION are designated on the PLAT by the letters "UP" and are numbered consecutively. Such parking spaces may be assigned by the BOARD to the exclusive use of a UNIT. If any of such parking spaces are assigned by the BOARD to the exclusive use of a UNIT, the BOARD shall record with the County

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Recorder of Maricopa County a notice, signed by an officer of the ASSOCIATION, identifying the parking space, the UNIT to which it has been assigned, and the date on which such assignment was made by the BOARD. Any such parking space not assigned by the BOARD to the exclusive use of a UNIT shall be available for use by the OWNERS, members of their families, their guests and their tenants.

### ARTICLE III

#### EASEMENTS

Section 3.0. Utility Easement. There is hereby created an easement upon, across, over and under the GENERAL COMMON ELEMENTS for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, water, sewers, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the GENERAL COMMON ELEMENTS. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utility or service lines may be installed or relocated on the GENERAL COMMON ELEMENTS except as initially designed, approved and constructed by the DECLARANT or as approved by the BOARD. This easement shall Unofficial Document no way affect any other recorded easements on the GENERAL COMMON ELEMENTS.

Section 3.1. Easements for Encroachments. Each UNIT and the GENERAL COMMON ELEMENTS shall be subject to an easement for encroachments, including but not limited to, encroachments of walls, ceilings, ledges, floors, and roofs created by construction, settling and overhangs as originally designed or constructed, or as created by discrepancies between the PLAT and the actual construction. If any portion of the GENERAL COMMON ELEMENTS shall actually encroach upon any UNIT, or if any UNIT shall actually encroach upon any portion of the GENERAL COMMON ELEMENTS, or if any UNIT shall actually encroach upon another UNIT, as the GENERAL COMMON ELEMENTS and the UNITS are shown on the PLAT, a valid easement for any of said encroachment and for the maintenance thereof, so long as they stand, shall and does exist. In the event any UNITS or structure is repaired, altered, or constructed, the OWNERS of the UNITS agree that similar encroachments shall be permitted and that a valid easement for said encroachment and for the maintenance thereof shall exist. The OWNER and any other parties acquiring any interest in the CONDOMINIUM shall acquiesce and agree to the existence of such easements by accepting a deed or otherwise becoming the OWNER of a UNIT.



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Section 3.2. Easements for Ingress and Egress.  
 There is hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the GENERAL COMMON ELEMENTS. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes; provided, however, that such easements shall not extend to any RESTRICTED COMMON ELEMENTS. Such easements shall run in favor of and be for the benefit of the OWNERS and occupants of the UNITS and their guests, families, tenants and invitees.

Section 3.3. Owners' Easements of Enjoyment.  
 Every OWNER shall have a right and easement of enjoyment in and to the GENERAL COMMON ELEMENTS, except for the RESTRICTED COMMON ELEMENTS, which right and easement shall be appurtenant to and shall pass with the title to every UNIT, subject to the following provisions:

(a) the right of the ASSOCIATION to adopt reasonable rules and regulations governing the use of the GENERAL COMMON ELEMENTS, except for the RESTRICTED COMMON ELEMENTS;

(b) the right <sup>Unofficial Document</sup> of the ASSOCIATION to suspend the voting rights of an OWNER for any period during which any assessment against his UNIT remains unpaid; and for a period not to exceed sixty (60) days for any other infraction or violation of the CONDOMINIUM DOCUMENTS;

(c) the right of the ASSOCIATION to dedicate or transfer all or any part of the GENERAL COMMON ELEMENTS to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the MEMBERS. No such dedication or transfer shall be effective unless an instrument signed by MEMBERS entitled to cast two-thirds (2/3) of the votes of each class of membership agreeing to such dedication or transfer has been recorded. The requirements of this Section shall not apply in the case of utility easements covered by Section 3.0 of this DECLARATION;

(d) the right of DECLARANT and its agents and representatives, in addition to the DECLARANT's rights set forth elsewhere in this DECLARATION, to the nonexclusive use, without charge, of the GENERAL COMMON ELEMENTS for display and exhibit purposes and the maintenance of sales facilities;

Section 3.4. Delegation of Use. Any OWNER may delegate, in accordance with this DECLARATION, his right of

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enjoyment to the GENERAL COMMON ELEMENTS, except for the RESTRICTED COMMON ELEMENTS, to the members of his family, his tenants, his guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times.

Section 3.5. Limitation on Transfer. An OWNER'S right and easement of enjoyment in and to the GENERAL COMMON ELEMENTS, except for the RESTRICTED COMMON ELEMENTS, shall not be conveyed, transferred, alienated or encumbered separate and apart from an OWNER'S UNIT. Such right and easement of enjoyment in and to the GENERAL COMMON ELEMENTS, except for the RESTRICTED COMMON ELEMENTS, shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any OWNER'S UNIT, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement or to the GENERAL COMMON ELEMENTS, except for the RESTRICTED COMMON ELEMENTS.

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## ARTICLE IV

## USE AND OCCUPANCY RESTRICTIONS

Section 4.0. Single Family Residential Use. All UNITS and RESTRICTED COMMON ELEMENTS shall be used, improved and devoted exclusively to residential use by a SINGLE FAMILY. No gainful occupation, profession, trade or other non-residential use shall be conducted on or in any UNIT or RESTRICTED COMMON ELEMENT. Nothing herein shall be deemed to prevent the lease of a UNIT to a SINGLE FAMILY from time to time by the OWNER thereof, subject to all of the provisions of this DECLARATION, nor shall any provision hereof be deemed to prohibit an OWNER from (i) maintaining his own personal professional library in his UNIT, (ii) keeping his personal business or professional records or accounts therein, or (iii) handling his personal business calls or correspondence therefrom.

Section 4.1. Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the CONDOMINIUM whether attached to a BUILDING or structure or otherwise, unless approved by the ARCHITECTURAL COMMITTEE.

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Section 4.2. Utility Service. Except for lines, wires and devices existing on the CONDOMINIUM as of the date of this DECLARATION and maintenance and replacement of the same, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon the CONDOMINIUM unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on BUILDINGS or other structures approved by the ARCHITECTURAL COMMITTEE. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of BUILDINGS or structures approved by the ARCHITECTURAL COMMITTEE.

Section 4.3. Improvements and Alterations. Except for original construction work undertaken by DECLARANT, with respect to any UNIT or the GENERAL COMMON ELEMENTS, there shall be no structural alterations, additions or improvements to any UNIT or the GENERAL COMMON ELEMENTS without the prior written approval of the MEMBERS entitled to cast at least fifty-one percent (51%) of the votes of

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each class of membership. Unless otherwise specified under this Section, the cost of such alterations, additions or improvements to the GENERAL COMMON ELEMENTS shall be paid by means of a special assessment against the OWNERS in the proportion of their respective undivided interests in and to the GENERAL COMMON ELEMENTS. Any OWNER may make non-structural additions, alterations and improvements within his UNIT without the prior written approval of the ARCHITECTURAL COMMITTEE, but such OWNER shall, to the extent required by Arizona law, be responsible for any damage to other UNITS and to the GENERAL COMMON ELEMENTS which results from any such alterations, additions or improvements. OWNERS are hereby prohibited from making any structural additions, alterations or improvements within a UNIT, unless prior to the commencement of each addition, alteration or improvement, the OWNER receives the prior written approval of the ARCHITECTURAL COMMITTEE and an architect or engineer, licensed in Arizona, certifies that such addition, alteration or improvement will not impair the structural integrity of the BUILDING within which such addition, alteration or improvement is to be made. The OWNER shall, to the extent required by Arizona law, be responsible for any damage to other UNITS and to the GENERAL COMMON ELEMENTS which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a UNIT, whether structural or not, which would be visible from the exterior of the building in which the UNIT is located, shall Unofficial Document without the prior written approval of the ARCHITECTURAL COMMITTEE, which approval shall only be granted if the ARCHITECTURAL COMMITTEE affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding IMPROVEMENTS.

Section 4.4. Trash Containers and Collection. No garbage or trash shall be placed or kept on the CONDOMINIUM except in covered containers of a type, size and style which are approved by the ARCHITECTURAL COMMITTEE. The BOARD shall have the right to subscribe to a trash service for the use and benefit of the ASSOCIATION and all OWNERS, and to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection. The BOARD shall have the right to require all OWNERS to place trash and garbage in containers located in areas designated by the BOARD. No incinerators shall be kept or maintained on the UNIT.

Section 4.5. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the CONDOMINIUM except such machinery or equipment as is usual and customary in connection with the

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use, maintenance or construction of buildings, improvements or structures which are within the permitted uses of such property, and except that which DECLARANT or the ASSOCIATION may require for the operation and maintenance of the GENERAL COMMON ELEMENTS.

Section 4.6. Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of house pets, shall be maintained in or on the CONDOMINIUM and then only if they are kept, bred or raised solely as domestic pets and not for commercial purposes. No pet or any other animal shall be allowed to make an unreasonable amount of noise, cause an odor, or to become a nuisance. All dogs shall be kept on a leash not to exceed six (6) feet in length when outside a UNIT or any RESTRICTED COMMON ELEMENTS reserved to the use of such UNIT, and all dogs shall be directly under the OWNER's control. No OWNER or any lessee or guest of an OWNER shall permit any dog being kept in the UNIT or the RESTRICTED COMMON ELEMENTS reserved to the use of such UNIT to relieve itself on any portion of the GENERAL COMMON ELEMENTS. It shall be the responsibility of said OWNER, lessee or guest to remove immediately any droppings from pets. No structure for the care, housing, confinement, or training of any animal or pet shall be maintained so as to be visible from the exterior of the building in which the UNIT is located. Upon the written request of any OWNER, the BOARD shall determine whether, for the purposes of this Section, a particular animal <sup>Unofficial Document</sup> is a generally recognized house pet, a nuisance, or whether the number of pets on any property is reasonable. Any decision rendered by the BOARD shall be enforceable as other restrictions contained herein.

Section 4.7. Temporary Occupancy. No trailer, basement of any incomplete IMPROVEMENT, building, tent, shack, garage or barn, and no temporary improvement of any kind shall be used at any time for a residence on any portion of the CONDOMINIUM either temporarily or permanently. Temporary buildings or structures used during the construction of buildings or structures approved by the ARCHITECTURAL COMMITTEE shall be permitted but must be removed promptly upon completion of the construction of the building or structure.

Section 4.8. Restriction on Further Subdivision and Time Shares. No UNIT shall be further subdivided or separated into smaller UNITS by any OWNER, and no portion less than all of any such UNIT shall be conveyed or transferred by any OWNER without the prior written approval of the BOARD. This restriction shall not prevent the granting by an OWNER thereof of an easement over part or parts of a

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UNIT for use by another OWNER. Neither the ownership or occupancy of any UNIT shall be in time shares. No OWNER shall transfer, sell, assign or convey any time share in his UNIT and any such transaction shall be void. "Time share" as used in this section shall mean a right to occupy an UNIT or any one of several UNITS during five (5) or more separated time periods over a period of at least five (5) years, including renewable options, whether or not coupled with an estate or interest in a UNIT or a specified portion of a UNIT.

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

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

Section 4.11. Diseases and Insects. No OWNER shall permit any thing or condition to exist upon the CONDOMINIUM, which could induce, breed or harbor infectious plant diseases or noxious insects.

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Section 4.12. Vehicles. No mobile home, motor home, recreational vehicle, boat, trailer of any kind, truck, camper or tent, or similar vehicle or structure shall be kept, placed, maintained, constructed or repaired, nor shall any motor vehicle be constructed, reconstructed or repaired, upon any portion of the CONDOMINIUM. No automobiles, trucks, motorcycles, motorbikes, scooters or other similar motor vehicle which are abandoned or inoperable shall be kept, placed or maintained on the CONDOMINIUM.

Section 4.13. Signs. No signs (including "For Sale" or "For Rent" signs) other than a name and address sign not exceeding 9 x 30 inches in size shall be permitted on the exterior of any UNIT or BUILDING or any other portion of the CONDOMINIUM without the written approval of the ARCHITECTURAL COMMITTEE.

Section 4.14. Lawful Use. No immoral, improper, offensive, or unlawful use shall be made on any part of the CONDOMINIUM. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the CONDOMINIUM shall be observed. Any violation of such laws, zoning ordinances or regulation shall be a violation of this DECLARATION.

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Section 4.15. Nuisances and Offensive Activity. No nuisance shall be permitted to exist or operate upon the CONDOMINIUM and no activity shall be conducted upon the CONDOMINIUM which is offensive or detrimental to any portion of the CONDOMINIUM or any OWNER or occupants of the CONDOMINIUM. No exterior speakers, horns, whistles, bells or other sound devices except security or other emergency devices used exclusively for security or emergency purposes shall be located, used or placed on the CONDOMINIUM.

Section 4.16. Window Coverings. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows of a UNIT without the prior written approval of the ARCHITECTURAL COMMITTEE. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a UNIT or any RESTRICTED COMMON ELEMENTS reserved for the use of such UNIT shall be constructed or installed in any UNIT or RESTRICTED COMMON ELEMENTS without the prior written consent of the ARCHITECTURAL COMMITTEE. Nothing contained in this Section shall be construed to prohibit the installation or use of a solar energy device as defined in Arizona Revised Statutes §43-1074.

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## ARTICLE V

## MAINTENANCE AND REPAIR OF GENERAL COMMON ELEMENTS AND UNITS

Section 5.0. Duties of the Association. The ASSOCIATION shall maintain, repair and make necessary improvements to all GENERAL COMMON ELEMENTS, except for those portions of the GENERAL COMMON ELEMENTS which the OWNERS of the UNITS are obligated to maintain pursuant to section 5.1 of this DECLARATION. The portion of the GENERAL COMMON ELEMENTS that the ASSOCIATION shall maintain includes, but is not limited to, all common facilities and improvements, landscaping, drainage facilities, roadways, streets, parking areas and walks. The ASSOCIATION'S duties for maintenance and repair of the GENERAL COMMON ELEMENTS shall include the exterior portions of the UNITS and BUILDINGS, the land upon which the BUILDINGS are located, the space above the BUILDINGS, all bearing walls, columns, floors, roofs, slabs, foundations, storage buildings and lobbies, water and sewer pipes, ducts, shoots, conduits, wires and all other utility installations of the BUILDINGS, except the outlets thereof when located within UNITS and all structural parts of the GENERAL COMMON ELEMENTS. All such repairs and maintenance shall be COMMON EXPENSES and shall be paid for the ASSOCIATION.

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Section 5.1. Duties of Owners. Each OWNER of a UNIT shall maintain, repair, replace and restore, at his own expense, all portions of his UNIT, subject to the CONDOMINIUM DOCUMENTS. Each OWNER shall, at his own expense, maintain, repair, replace and restore, all doors, window glass, and any heating, cooling and air conditioning systems and equipment exclusively serving his UNIT, and all electrical and plumbing fixtures and appliances exclusively serving his UNIT, including, but not limited to, dishwashers, laundry equipment, ranges, ovens, water heaters other built-in appliances. Each OWNER shall clean, maintain, repair, replace and restore all interior finishes including, without limitation, floor coverings and wall coverings. No OWNER shall remove, alter, injure or interfere in any way with any shrubs, trees, grass or plantings placed upon the CONDOMINIUM by DECLARANT or the ASSOCIATION without first having obtained the written consent of the ARCHITECTURAL COMMITTEE. In addition, each OWNER shall be responsible for the maintenance and repair of the RESTRICTED COMMON ELEMENTS (except for the structural parts of the RESTRICTED COMMON ELEMENTS) to which he has the right of exclusive use pursuant to Section 2.6 of this DECLARATION (except for covered and uncovered parking spaces). Each OWNER shall take all necessary action to keep the RESTRICTED COMMON ELEMENTS free and clean from unsightly accumulations



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of weeds, trash and litter. Each OWNER shall have an easement over, across and through such portions of the GENERAL COMMON ELEMENTS as are necessary in order for the OWNER to perform his obligations under this Section with respect to the maintenance, repair, replacement and restoration of those portions of the GENERAL COMMON ELEMENTS and RESTRICTED COMMON ELEMENTS which he is obligated to maintain.

Section 5.2. Repair or Restoration Necessitated by Owner. Each OWNER shall be liable to the ASSOCIATION, to the extent provided for by Arizona law, for any damage to the GENERAL COMMON ELEMENTS or the IMPROVEMENTS, landscaping or equipment thereon which results from the negligence or willful conduct of the OWNER. The cost to the ASSOCIATION of any such repair, maintenance or replacements required by such act of an OWNER shall be paid by said OWNER, upon demand, to the ASSOCIATION. The ASSOCIATION may enforce collection of any such amounts in the same manner and to the same extent as provided for in this DECLARATION for the collection of assessments.

Section 5.3. Association Right of Access. Each OWNER hereby grants to the ASSOCIATION a right of access to the GENERAL COMMON ELEMENTS for the purpose of enabling the ASSOCIATION, BOARD, ARCHITECTURAL COMMITTEE and any other committees established by the BOARD to exercise and discharge their respective powers, <sup>Unofficial Document</sup> duties and responsibilities under the CONDOMINIUM DOCUMENTS. This right of access shall include, but not be limited to, the right to enter upon the GENERAL COMMON ELEMENTS for the purpose of determining whether the provisions of this DECLARATION are being complied with by the OWNERS, their guests, invitees, tenants and licensees. The ASSOCIATION shall have the right to enter a UNIT in case of emergency.

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## ARTICLE VI

## THE ASSOCIATION

Section 6.0. Rights, Powers and Duties of the Association. The ASSOCIATION shall be a non-profit Arizona corporation. The ASSOCIATION shall constitute the "Council of Co-Owners" as that term is defined in the Horizontal Property Regime Act, Arizona Revised Statutes, Section 33-551, et seq., and shall have such rights, powers and duties as are prescribed by law and as are set forth in the CONDOMINIUM DOCUMENTS together with such rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes of the ASSOCIATION as set forth in this DECLARATION.

Section 6.1. Directors and Officers. The affairs of the ASSOCIATION shall be conducted by the BOARD and such officers and committees as the directors may elect and appoint, in accordance with the ARTICLES and the BYLAWS.

Section 6.2. 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. The ASSOCIATION RULES may, among other things, restrict and govern the use of any area by any OWNER, by the family of such OWNER, or by any invitee, licensee or Unofficial Document of such OWNER; provided, however, that the ASSOCIATION RULES may not unreasonably discriminate among OWNERS and shall not be inconsistent with this DECLARATION, the ARTICLES or BYLAWS. A copy of the ASSOCIATION 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.

Section 6.3. Architectural Committee. The BOARD shall establish an ARCHITECTURAL COMMITTEE consisting of not less than three (3) members appointed by the BOARD to regulate the external design, appearance, use and maintenance of the CONDOMINIUM and to perform such other functions and duties as are imposed upon it by this DECLARATION, the BYLAWS or by the BOARD.

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## ARTICLE VII

## MEMBERSHIP AND VOTING RIGHTS

Section 7.0 Identity. Each OWNER of a UNIT shall be a MEMBER of the ASSOCIATION.

Section 7.1. Classes of Membership. The ASSOCIATION shall have two classes of voting membership:

Class A. Class A members shall be all OWNERS, with the exception of the DECLARANT until such time as the Class B membership ceases, of UNITS. Each Class A member shall be entitled to one (1) vote for each UNIT owned.

Class B. The Class B member shall be the DECLARANT. The Class B member shall be entitled to three (3) votes for each UNIT owned. The Class B membership shall cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

(a) 120 days after the date by which seventy-five percent (75%) of the UNITS have been conveyed to PURCHASERS; or

(b) five <sup>Unofficial Document</sup> years after the conveyance of the first UNIT to a PURCHASER; or

(c) when the DECLARANT notifies the ASSOCIATION in writing that it relinquishes its Class B membership.

Section 7.2. Joint Ownership. When more than one person is the OWNER of a UNIT, all such persons shall be MEMBERS. The vote for such UNIT shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any UNIT. The vote for each such UNIT must be cast as a unit, and fractional votes shall not be allowed. In the event that joint OWNERS are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any OWNER casts a ballot representing a certain UNIT, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other OWNERS of the same UNIT. In the event more than one ballot is cast for a particular UNIT, none of said votes shall be counted and said votes shall be deemed void.

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Section 7.3. Corporate or Partnership Ownership. In the event a UNIT is owned by a corporation, partnership or association, the corporation, partnership or association shall be a MEMBER and shall designate in writing to the ASSOCIATION at the time of its acquisition of the UNIT, the name and title of the person who shall have the power to vote the membership of the corporation, partnership or association in the ASSOCIATION. The person so designated shall be the only person who shall be entitled to cast the vote for the UNITS owned by such corporation, partnership or association. If the corporation, partnership or association fails to designate the person who shall have the right to vote the membership of the corporation, partnership or association, then such corporation, partnership or association shall lose its right to vote and it shall not be considered as a MEMBER for the purpose of determining the requirement for a quorum or any other purpose requiring the approval of a person entitled to cast the vote for the UNIT owned by such corporation, partnership or association.

Section 7.4. Suspension of Voting Rights. In the event any OWNER of a UNIT is in arrears in the payment of any assessment or other amounts due under the terms of the CONDOMINIUM DOCUMENTS for a period of fifteen (15) days, said OWNER'S right to vote as a MEMBER of the ASSOCIATION shall be automatically <sup>Unofficial Document</sup> suspended and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current, and for a period not to exceed sixty (60) days for any infraction of the CONDOMINIUM DOCUMENTS.

Section 7.5. Transfer of Membership. The ASSOCIATION membership of each OWNER of a UNIT shall be appurtenant to such UNIT. 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 of such UNIT, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record, exercise of a power of sale under a Deed of Trust, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the ASSOCIATION. Any transfer of ownership to said UNIT shall operate to transfer said membership to the new OWNER thereof.

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## ARTICLE VIII

## COVENANT FOR MAINTENANCE ASSESSMENTS

Section 8.0. Creation of the Lien and Personal Obligation of Assessments. Each OWNER of a UNIT, by acceptance of a deed therefor or otherwise becoming the OWNER thereof, is deemed to covenant and agree to pay to the ASSOCIATION: (1) Annual assessments, (2) special assessments for capital improvements, and (3) supplemental assessments. Such assessments shall be levied and collected as provided for in this DECLARATION. The annual, special and supplemental assessments, together with interest, costs and reasonable attorney's fees, shall be a lien on the UNIT against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of each person who was the OWNER of such UNIT at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 8.1. Purpose of Assessments. The assessments levied by the ASSOCIATION shall be used exclusively to promote the recreation, health, safety, and welfare of the OWNERS, for the improvement and maintenance of the GENERAL COMMON ELEMENTS, and for all purposes set forth in the CONDOMINIUM DOCUMENTS, including but not limited to, insurance premiums, expenses for maintenance repairs and replacements of GENERAL COMMON ELEMENTS and reserves for depreciation and contingencies.

Section 8.2. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first UNIT to a PURCHASER, the maximum annual assessment shall be Nine Hundred Dollars (\$900.00) for each UNIT.

(a) From and after January 1 of the year immediately following the conveyance of the first UNIT to a PURCHASER, the BOARD may, without a vote of the membership of the ASSOCIATION, increase the maximum annual assessment during each fiscal year of the ASSOCIATION by an amount proportional to the amount of increase during the prior fiscal year in the Consumer Price Index for All Urban Consumers (All Items), U.S. City Average, published by the United States Department of Labor, Bureau of Labor Statistics (1967=100), or in the event said index ceases to be published, by any successor index recommended as a substitute therefor by the United States government.

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(b) From and after January 1 of the year immediately following the conveyance of the first UNIT to a PURCHASER, the maximum annual assessment may be increased by an amount greater than the maximum increase allowed pursuant to Section 8.2(a) above, only with the approval of OWNERS representing two-thirds (2/3) of the votes of each class of membership who are voting in person or by proxy at a meeting duly called for such purpose.

(c) The BOARD shall fix the annual assessment for each UNIT in accordance with Section 8.6 of this DECLARATION but the annual assessment for a UNIT for any fiscal year of the ASSOCIATION may not exceed the maximum annual assessment established by the BOARD pursuant to this Section 8.2.

Section 8.3. Special Assessments. In addition to annual assessments, the ASSOCIATION may levy, in any fiscal year of the ASSOCIATION, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the GENERAL COMMON ELEMENTS, Unofficial Document including fixtures and personal property related thereto, or for any other lawful ASSOCIATION purpose, provided that any such assessment shall have first been approved by OWNERS representing two-thirds (2/3) of the votes of each class of membership who are voting in person or by proxy at a meeting duly called for such purpose.

Section 8.4. Supplemental Assessments. In the event the BOARD shall determine that its funds budgeted or available in any fiscal year are, or will, become inadequate to meet all expenses of the ASSOCIATION for any reason, including nonpayment of assessments, it shall immediately determine the approximate amount of such inadequacies for such fiscal year and issue a supplemental budget and levy a supplemental assessment against the OWNERS of each UNIT for the amount required to pay all such expenses; provided, however, that any such supplemental assessment must first be approved by OWNERS representing at least two-thirds (2/3) of the votes of each class of membership who are voting in person or by proxy at a meeting duly called for such purpose.

Section 8.5. Notice and Quorum for any Action Authorized Under Sections 8.2, 8.3 and 8.4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 8.2, 8.3, or 8.4 shall

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be sent to all MEMBERS not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of MEMBERS or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8.6 Rate of Assessment. The annual assessment for each UNIT for each fiscal year of the ASSOCIATION shall be the sum equal to the total of (i) the estimated COMMON EXPENSES of the ASSOCIATION for the fiscal year, (ii) the amount determined by the BOARD to be required during the fiscal year for the establishment and maintenance of a reserve fund pursuant to Section 8.14 of this DECLARATION, and (iii) the amount determined by the BOARD to be necessary for the ASSOCIATION to perform all of its duties and obligations under the terms of the CONDOMINIUM DOCUMENTS for the fiscal year, multiplied by such UNIT'S undivided interest in the GENERAL COMMON ELEMENTS pursuant to Section 2.5 of this DECLARATION. Each UNIT shall be assessed its proportionate share of any supplemental or special assessments levied pursuant to Sections 8.3 or 8.4 of this DECLARATION. Each UNIT'S proportionate share of any such assessments shall be the amount obtained by multiplying the total amount of such supplemental or special assessment by such UNIT'S undivided interest in the GENERAL COMMON ELEMENTS pursuant to Section 2.5 of this DECLARATION.

Section 8.7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all UNITS on the first day of the month following the conveyance of the first UNIT to a PURCHASER. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the ASSOCIATION. The BOARD shall fix the amount of the annual assessment against each UNIT at least thirty (30) days in advance of each fiscal year. If the annual assessment is not fixed by the BOARD at least thirty (30) days in advance of the fiscal year, then the annual assessment for the prior fiscal year shall remain in effect until the thirtieth day after the BOARD fixes the annual assessment for the then current fiscal year. Written notice of the annual assessment shall be sent to every OWNER subject thereto prior to the commencement of the fiscal year; provided, however, that failure to give such notice shall

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not affect the validity or enforceability of the assessments as fixed by the BOARD. The BOARD may require that the annual, supplemental or special assessments be paid in installments. Unless otherwise specified by the BOARD special and supplemental assessments shall be due thirty (30) days after they are levied by the ASSOCIATION and notice of the assessment is given to the OWNERS.

Section 8.8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment, or any installment of an assessment, which is not paid within thirty (30) days after the assessment first became due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum or the prevailing FHA/VA interest rate for new home loans, whichever is higher.

Any assessment, or any installment of an assessment, which is delinquent shall become a continuing lien on the UNIT against which such assessment was made. The lien shall be perfected by the recordation of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent OWNER, (2) the legal description or street address of the UNIT against which the claim of lien is made, (3) the amount claimed as of the date of the recording of the notice including interest, collection costs, lien recording fees and reasonable attorneys' fees, (4) the name of the OWNER of the UNIT as shown in the records of the ASSOCIATION, and (5) the name and address of the ASSOCIATION. The ASSOCIATION'S <sup>Unofficial Document</sup> lien shall have priority over all liens or claims created subsequent to the recordation of the Notice of Claim of Lien except for tax liens for real property taxes on the UNIT, assessments on any UNIT in favor of any municipal or other governmental body and the liens which are specifically described in section 8.9 of this DECLARATION.

Before recording a lien against any UNIT the ASSOCIATION shall make a written demand to the defaulting OWNER for payment. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the ASSOCIATION may proceed with recording a Notice of Claim of Lien against the UNIT of the defaulting OWNER.

The ASSOCIATION shall have the right, at its option, to enforce collection of any delinquent assessments in any manner allowed by law including, but not limited to, (a) bringing an action at law against the OWNER personally obligated to pay the delinquent assessments and such action



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may be brought without waiving any lien securing any such delinquent assessments, (b) bringing an action to foreclose its lien against the UNIT in the manner provided by law for the foreclosure of a realty mortgage, or (c) exercising a power of sale in the manner provided by law for a sale under a deed of trust. The ASSOCIATION shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all UNITS purchased at such sale.

Section 8.9. Subordination of Assessment Lien to Mortgages. The lien of the assessments provided in this DECLARATION shall be subordinate to the lien of any FIRST MORTGAGE. Sale or transfer of any UNIT shall not affect the assessment lien. However, the sale or transfer of any UNIT pursuant to judicial or nonjudicial foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such UNIT from liability for any assessments thereafter becoming due or from the lien thereof.

Section 8.10. Exemption of Owner. No OWNER of a UNIT may exempt himself from liability for payment of assessments and other charges levied pursuant to the CONDOMINIUM DOCUMENTS by waiver and non-use of any of the GENERAL COMMON ELEMENTS and facilities or by the abandonment of his UNIT.

Section 8.11. Unallocated Tax Assessments. In the event that any taxes are assessed against the personal property of the ASSOCIATION, said taxes shall be included in the assessments made under the provisions of this Article, and, if necessary, a supplemental or special assessment may be levied against the UNITS in an amount equal to said taxes, to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

Section 8.12. Certificate of Payment. The ASSOCIATION shall, upon demand of an OWNER, furnish to such OWNER a certificate in writing signed by an officer of the ASSOCIATION setting forth whether the assessments on a particular UNIT have or have not been paid and the amount of any unpaid assessments. The ASSOCIATION may charge the OWNER requesting the certificate a reasonable fee in an amount established by the BOARD for each such certificate. Such certificate shall be conclusive evidence of payment of any assessment described in the certificate as having been paid.

Section 8.13. Working Capital Fund. A working capital fund shall be established for the initial months of

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the project operations in an amount equal to at least two monthly installments of the current annual assessment for each UNIT.

Section 8.14. Maintenance of Reserve Fund. Out of the annual assessments, the ASSOCIATION shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the GENERAL COMMON ELEMENTS which the ASSOCIATION is obligated to maintain.

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ARTICLE IX  
CONDEMNATION

Section 9.0. Consequences of Condemnation; Notices. If at any time all or any part of the CONDOMINIUM shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Article shall apply. Upon any such act, each OWNER who has requested special notice, and each holder of a lien or encumbrance on the CONDOMINIUM or any part thereof shall be provided with timely written notice of any proceeding or proposed acquisition or sale. The ASSOCIATION shall represent the OWNERS in any condemnation proceeding or in negotiations, settlements and agreements with the condemning authority for acquisition of the GENERAL COMMON ELEMENTS or any part thereof.

Section 9.1. Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "CONDEMNATION AWARD," shall be payable to the BOARD in trust for the OWNERS and all holders of liens and encumbrances on the CONDOMINIUM or any part thereof, as their interests may appear.

Section 9.2. Complete Taking. In the event that the entire CONDOMINIUM is taken or condemned, or sold or otherwise disposed of in <sup>Unofficial Document</sup> or in avoidance thereof, the Horizontal Property Regime created pursuant hereto shall terminate. The CONDEMNATION AWARD shall be apportioned among the OWNERS in proportion to the fair market value of each OWNER'S UNIT as compared to the fair market value of all of the UNITS at the time of the condemnation. The fair market value of each UNIT at the time of the condemnation shall be determined by the judgment or order entered by the Court making the CONDEMNATION AWARD or, if there is no judgment or order or if the judgment or order fails to specify the fair market value of each of the UNITS, then the fair market value of each UNIT shall be determined by an appraiser employed by the BOARD. If the BOARD employs an appraiser for such purpose then the fee or compensation to be paid to the appraiser shall be paid by the BOARD out of the CONDEMNATION AWARD. On the basis of the foregoing principle, the BOARD shall as soon as practicable determine the share of the CONDEMNATION AWARD to which each OWNER is entitled. Out of the respective share of each OWNER, the BOARD shall pay, to the extent such funds are sufficient for such purpose, all encumbrances and liens on the interest of such OWNER in the order of their priority, and the balance, if any, of the OWNER'S share shall then be distributed to the OWNER.

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Section 9.3. Partial Taking. In the event that less than the entire CONDOMINIUM is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the Horizontal Property Regime created hereunder shall not terminate and the following provisions shall apply:

(a) Each OWNER shall be entitled to a share of the CONDEMNATION AWARD to be determined in the following manner:

(i) As soon as practicable the BOARD shall, reasonably and in good faith, allocate the CONDEMNATION AWARD between compensation, severance damages, or other proceeds;

(ii) The BOARD shall apportion the amounts so allocated to a taking of or injury to the GENERAL COMMON ELEMENTS which in turn shall be apportioned among the OWNERS in proportion to the fair market value of each OWNER'S UNIT as compared to the fair market value of all of the UNITS at the time of the condemnation. The fair market value of each UNIT at the time of the condemnation shall be determined by the judgment or order entered by the Court making the CONDEMNATION AWARD or, if there is no judgment or order or if the judgment or order fails to specify the fair market value of each of the UNITS, then the fair market value of each UNIT shall be determined Unofficial Document appraiser employed by the BOARD. If the BOARD employs an appraiser for such purpose, then the fee or compensation to be paid to the appraiser shall be paid by the BOARD out of the CONDEMNATION AWARD.

(iii) The total amount allocated to severance damages shall be apportioned to those UNITS which were not taken or condemned;

(iv) The respective amounts allocated to the taking of or injury to a particular UNIT and/or improvements an OWNER had made within his own UNIT shall be apportioned to the particular UNIT involved;

(v) The amount allocated to consequential damages and any other taking or injury shall be apportioned as the BOARD determines to be equitable in the circumstances;

(vi) If an allocation of the CONDEMNATION AWARD is already established in negotiation, judicial decree or otherwise, then in allocating the CONDEMNATION AWARD the BOARD shall employ such allocation to the extent it is relevant and applicable;

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(vii) Distribution of apportioned proceeds shall be made to the respective FIRST MORTGAGEES of each UNIT and any sums in excess of the amount necessary to satisfy the FIRST MORTGAGE shall be paid to the OWNER of the UNIT.

(b) Upon the acquisition of one or more UNITS by the condemning authority, the interest of the UNIT or UNITS taken in the GENERAL COMMON ELEMENTS shall be reallocated to the other UNITS within the CONDOMINIUM so that the fractional interest of each remaining UNIT shall be a fraction the numerator of which is one and the denominator of which is the number of UNITS remaining in the CONDOMINIUM after the condemnation.

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## ARTICLE X

## INSURANCE

Section 10.0. Scope of Coverage. Commencing not later than the date of the first conveyance of a UNIT to a PURCHASER, the ASSOCIATION shall maintain, to the extent reasonably available, the following insurance coverage:

(a) Property insurance on the GENERAL COMMON ELEMENTS and UNITS, exclusive of improvements and betterments installed in UNITS by OWNERS, insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the GENERAL COMMON ELEMENTS and UNITS, as determined by the BOARD; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from property policy.

(b) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the BOARD, Unofficial Document less than \$1,000,000.00. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out or in connection with the use, ownership or maintenance of the GENERAL COMMON ELEMENTS and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the OWNERS as a group to an OWNER.

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

(d) Such other insurance as the ASSOCIATION shall determine from time to time to be appropriate to protect the ASSOCIATION or the OWNERS.

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

(1) Each OWNER shall be an insured under the policy with respect to liability arising out of his ownership of an undivided interest in the GENERAL COMMON ELEMENTS or his membership in the ASSOCIATION.

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(2) There shall be no subrogation with respect to the ASSOCIATION, its agents, servants, and employees, with respect to OWNERS and members of their household.

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

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

(5) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an OWNER because of the negligent acts of the ASSOCIATION or other OWNERS.

(6) Statement of the name of the insured as "Windsor Gardens, Inc." for use and benefit of the individual OWNERS (designated by name if required by the insured).

(7) <sup>Unofficial Document</sup> For policies of hazard insurance a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance of the effective date of any reduction or cancellation of the policy.

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

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

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

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Section 10.1. Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the ASSOCIATION and, upon request, to any OWNER, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the ASSOCIATION, each OWNER and each FIRST MORTGAGEE who is listed as a scheduled holder of a FIRST MORTGAGE in the insurance policy.

Section 10.2. Fidelity Bonds. The ASSOCIATION shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the ASSOCIATION and all other persons handling or responsible for funds of or administered by the ASSOCIATION. Where the ASSOCIATION has delegated some or all of the responsibility for the handling of funds to a management agent, the ASSOCIATION shall require the management agent to provide fidelity bonds for its officers, employees and agents handling or responsible for funds of, or administered on behalf of the ASSOCIATION. The total amount of fidelity bond coverage shall be based upon the best business judgment of the BOARD, and shall not be less than the greater of (i) the amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the CONDOMINIUM, (ii) the estimated maximum of funds, including reserve funds, in the custody of the ASSOCIATION or the management agent, as the case may be, at any given time during the term of each bond or (iii) the sum equal to three months aggregate assessments on all UNITS plus reserve funds. Fidelity bonds obtained by the ASSOCIATION must also meet the following requirements:

(a) The fidelity bonds shall name the ASSOCIATION as an obligee;

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

(c) The bonds shall provide that they may not be cancelled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the ASSOCIATION and each FIRST MORTGAGEE.

Section 10.3. Payment of Premiums. Premiums for all insurance obtained by the ASSOCIATION pursuant to this Article shall be COMMON EXPENSES and shall be paid for by the ASSOCIATION.



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Section 10.4. Insurance Obtained by Owners. The issuance of insurance policies to the ASSOCIATION pursuant to this Article shall not prevent an OWNER from obtaining insurance for his own benefit and at his own expense covering his UNIT, his personal property and providing personal liability coverage.

Section 10.5. Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the ASSOCIATION in accordance with this Article shall be adjusted with the ASSOCIATION and the insurance proceeds shall be payable to the ASSOCIATION and not to any mortgagee or beneficiary under a deed of trust. The ASSOCIATION shall hold any insurance proceeds in trust for OWNERS and lienholders as their interests may appear. Subject to the provisions of Section 10.6 of this Article, the proceeds shall be disbursed for the repair or restoration of the damage to GENERAL COMMON ELEMENTS and UNITS, and OWNERS and lienholders shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the GENERAL COMMON ELEMENTS and UNITS have been completely repaired or restored, or the Horizontal Property Regime terminated.

Section 10.6. Repair and Replacement of Damaged or Destroyed Property. Unofficial Document Any portion of the CONDOMINIUM damaged or destroyed shall be repaired or replaced promptly by the ASSOCIATION unless (a) the Horizontal Property Regime is terminated, (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (c) eighty percent (80%) of the OWNERS, including every OWNER of a UNIT which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a COMMON EXPENSE. If the entire CONDOMINIUM is not repaired or replaced, (a) insurance proceeds attributable to the damaged GENERAL COMMON ELEMENTS shall be used to restore the damaged area to a condition compatible with the remainder of the CONDOMINIUM, (b) insurance proceeds attributable to UNITS which are not to be rebuilt shall be distributed to the OWNERS of those UNITS, (c) the remainder of the proceeds shall be distributed to all OWNERS in proportion to the fair market value of each OWNER'S UNIT as compared to the fair market value of all of the UNITS at the time of the damage or destruction as determined by an appraiser employed by the BOARD. If the OWNERS vote not to rebuild a UNIT, that UNIT's entire GENERAL COMMON ELEMENTS interest and votes in the ASSOCIATION shall be automatically reallocated as if the UNIT had been condemned, and the ASSOCIATION shall promptly prepare, execute and record an amendment to the DECLARATION reflecting the allocations.

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Section 10.7. Insurance Trustee. Notwithstanding any other provisions of this Article, there may be named as an insured on behalf of the ASSOCIATION, the ASSOCIATION'S authorized representative, including any trustee with whom such ASSOCIATION may enter into any Insurance Trust Agreement or any successor to such trustee ("Insurance Trustee"), who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance to the ASSOCIATION. Each OWNER, by accepting a deed to, or otherwise becoming the OWNER of, a UNIT, appoints the ASSOCIATION or any Insurance Trustee or substitute Insurance Trustee designated by the ASSOCIATION, as attorney-in-fact for the purpose of purchasing such insurance, including, but without limitation: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases or liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The ASSOCIATION or any Insurance Trustee shall receive hold or otherwise properly dispose of any proceeds of insurance in trust for OWNERS and their FIRST MORTGAGEES, as their interests may appear.

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## ARTICLE XI

## NOTICE OF VIOLATION

Section 11.0. Recording of Notice. The ASSOCIATION shall have the right to record a written notice of a violation by any OWNER of any restriction or provision of the CONDOMINIUM DOCUMENTS. The notice shall be executed and acknowledged by an officer of the ASSOCIATION and shall contain substantially the following information:

- (1) The name of the OWNER;
- (2) The legal description or street address of the UNIT against which the notice is being recorded;
- (3) A brief description of the nature of the violation;
- (4) A statement that the notice is being recorded by the ASSOCIATION pursuant to this DECLARATION; and
- (5) A statement of the specific steps which must be taken by <sup>the</sup> OWNER to cure the violation.

Section 11.1. Effect of Recording. Recordation of a Notice of Violation shall serve as notice to the OWNER and to any subsequent purchaser of the UNIT that there is a violation of the provisions of the CONDOMINIUM DOCUMENTS. If, after the recordation of such notice, it is determined by the ASSOCIATION that the violation referred to in the notice does not exist or that the actual violation referred to in the notice has been cured, the ASSOCIATION shall record a notice of compliance which shall state the legal description or street address of the UNIT against which the notice of violation was recorded, the recording data identifying the docket and page where the notice of violation was recorded, and shall state that the violation referred to in the notice of violation has been cured, or if such be the case, that it did not exist.

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## ARTICLE XII

ANNEXATION

Section 12.0. Right of Annexation. DECLARANT hereby expressly reserves the right until seven (7) years from the date of the recording of this DECLARATION to expand the Horizontal Property Regime created by this DECLARATION, without the consent of any other OWNER, by annexing all or any portion of the ANNEXABLE PROPERTY. In the event the DECLARANT annexes all or any part of the ANNEXABLE PROPERTY, the fractional interest of each UNIT in the GENERAL COMMON ELEMENTS shall be adjusted by the DECLARANT. Each UNIT'S undivided interest in the GENERAL COMMON ELEMENTS shall be the fraction the numerator of which shall be one (1) and the denominator of which shall be the total number of UNITS then in the Horizontal Property Regime. The annexation of any or all of the ANNEXABLE PROPERTY shall be accomplished by the DECLARANT recording with the County Recorder of Maricopa County, Arizona, a Declaration of Annexation stating the following:

(1) the legal description of the portion of the ANNEXABLE PROPERTY being annexed;

(2) the number of UNITS being added by the annexation;

(3) the fractional interest of each UNIT in the GENERAL COMMON ELEMENTS as computed in accordance with the provisions of this Section;

(4) a description of any portion of the ANNEXABLE PROPERTY being added which will be RESTRICTED COMMON ELEMENTS or LIMITED COMMON ELEMENTS and the designation of the UNITS to which those RESTRICTED COMMON ELEMENTS or LIMITED COMMON ELEMENTS will be reserved.

The annexation of the portion of the ANNEXABLE PROPERTY described in the Declaration of Annexation shall become effective and the UNIT OWNER'S obligation to pay assessments and the voting rights of the UNIT OWNERS in the ASSOCIATION shall be effective as of the date the Declaration of Annexation is recorded. The DECLARANT is hereby irrevocably appointed as agent and attorney-in-fact for the OWNERS and each of them to adjust each UNIT'S fractional

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interest in the GENERAL COMMON ELEMENTS and to do all other acts required by this Section in order to annex any or all of the ANNEXABLE PROPERTY.

Section 12.1. No Assurances. DECLARANT makes no assurances as to the exact location of buildings and other improvements to be constructed on the ANNEXABLE PROPERTY. DECLARANT makes no assurances as to the exact number of UNITS which shall be added to the Horizontal Property Regime by annexation of all or any portion of the ANNEXABLE PROPERTY, but the number of UNITS added by any such annexation shall not exceed forty-eight (48). DECLARANT makes no assurances as to what improvements may be constructed on the ANNEXABLE PROPERTY but such improvements shall be consistent in quality, material and style with the improvements constructed on the real property described in Exhibit A attached to this DECLARATION. All improvements to be constructed on any portion of the ANNEXABLE PROPERTY annexed into the Horizontal Property Regime will be substantially completed prior to the annexation of such ANNEXABLE PROPERTY. All taxes and other assessments relating to all or any portion of the ANNEXABLE PROPERTY annexed into the Horizontal Property Regime covering any period prior to the recording of the Declaration of Annexation shall be the responsibility of and shall be paid Unofficial Document for by the DECLARANT.

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## ARTICLE XIII

## RIGHTS OF FIRST MORTGAGEES

**Section 13.0. Notification to First Mortgagees.** Upon receipt by the ASSOCIATION of a written request from a FIRST MORTGAGEE or insurer or governmental guarantor of a FIRST MORTGAGE informing the ASSOCIATION of its correct name and mailing address and number or address of the UNIT to which the request relates, the ASSOCIATION shall provide such ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER OR GUARANTOR with timely written notice of the following:

(a) Any condemnation loss or any casualty loss which affects a material portion of the CONDOMINIUM or any UNIT on which there is a FIRST MORTGAGE held, insured or guaranteed by such ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER OR GUARANTOR;

(b) Any delinquency in the payment of assessments or charges owed by an OWNER of a UNIT subject to a FIRST MORTGAGE held, insured or guaranteed by such ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER OR GUARANTOR or any other default in the performance by the OWNER of any obligation under the CONDOMINIUM DOCUMENTS, which delinquency or default remains uncured for the period of sixty (60) days;

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

(d) Any proposed action which requires the consent of a specified percentage of ELIGIBLE MORTGAGE HOLDERS as set forth in Sections 13.1 or 13.2 of this DECLARATION.

**Section 13.1. Actions Requiring Approval of Eligible Mortgage Holders.** To the extent permitted by applicable law, ELIGIBLE MORTGAGE HOLDERS shall have the following rights:

(a) Any restoration or repair of the CONDOMINIUM, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the DECLARATION and the original plans and specifications, unless other action is approved by ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

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(b) Any election to terminate the legal status of the CONDOMINIUM after substantial destruction or a substantial taking in condemnation of the CONDOMINIUM shall not be effective unless approved by ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

(c) Unless the formula for reallocation of interest in the GENERAL COMMON ELEMENTS after a partial condemnation or partial destruction of the CONDOMINIUM is fixed in advance by the DECLARATION or BYLAWS or by applicable law, no reallocation of interests in the GENERAL COMMON ELEMENTS resulting from a partial condemnation or partial destruction of the CONDOMINIUM may be effected without the prior approval of ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on all remaining UNITS, whether existing in whole or in part, the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

(d) When professional management of the ASSOCIATION has been previously required by any ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER OR GUARANTOR, whether such entity became an ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER OR GUARANTOR at <sup>Unofficial Document</sup> ~~that time~~ or later, any decision to establish self management by the ASSOCIATION shall require the prior consent of OWNERS having at least sixty-seven (67%) of the votes in the ASSOCIATION and the approval of ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

Section 13.2. Approval Required for Amendment to Declaration, Articles or Bylaws. The following provisions shall apply to all amendments to the DECLARATION, ARTICLES and BYLAWS, except for those amendments made as a result of destruction, damage or condemnation pursuant to Section 13.1 of this DECLARATION:

(a) The consent of OWNERS having at least sixty-seven (67%) of the votes in the ASSOCIATION and the approval of ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least sixty-seven percent (67%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held

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by ELIGIBLE MORTGAGE HOLDERS, shall be required to terminate the legal status of the CONDOMINIUM as a Horizontal Property Regime.

(b) The consent of OWNERS having at least sixty-seven (67%) of the votes in the ASSOCIATION and the approval of ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS, shall be required to add or amend any material provisions of the DECLARATION, ARTICLES or BYLAWS which establish, provide for, govern or regulate any of the following:

1. Voting;
2. Assessments, assessment liens or subordination of such liens;
3. Reserves for maintenance, repair and replacement of GENERAL COMMON ELEMENTS (or UNITS, if applicable);
4. Insurance or fidelity bonds;
5. Rights to the use of the GENERAL COMMON ELEMENTS;
6. Responsibility for maintenance and repair of the several portions of the CONDOMINIUM;
7. Expansion or contraction of the CONDOMINIUM, or the addition, annexation or withdrawal of property to or from the CONDOMINIUM;
8. Boundaries of any UNIT;
9. The interests in the GENERAL COMMON ELEMENTS or RESTRICTED COMMON ELEMENTS;
10. Convertability of UNITS into GENERAL COMMON ELEMENTS or of GENERAL COMMON ELEMENTS into UNITS;
11. Leasing of UNITS;
12. Imposition of any right of first refusal or similar restriction on the right of any OWNER to sell, transfer or otherwise convey his UNIT;

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13. Any provisions which are for the express benefit of FIRST MORTGAGEES, ELIGIBLE MORTGAGE HOLDERS or ELIGIBLE INSURERS OR GUARANTORS.

(c) Any addition or amendment to the DECLARATION, ARTICLES or BYLAWS shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. Any FIRST MORTGAGEE who receives a written request to approve additions or amendments to the DECLARATION, ARTICLES or BYLAWS who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Section 13.3. Prohibition Against Right of First Refusal. The right of an OWNER to sell, transfer or otherwise convey his UNIT shall not be subject to any right of first refusal or similar restriction.

Section 13.4. First Mortgagee Not Liable for Prior Assessments. Any FIRST MORTGAGEE or any other party acquiring title or coming into possession of a UNIT through foreclosure of the FIRST MORTGAGE, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid assessments and charges against the UNIT which became payable prior to such sale or transfer. Any such delinquent assessments Unofficial Document shall be extinguished pursuant to this Section and may be reallocated and assessed to all UNITS as a COMMON EXPENSE. Any assessments and charges against the UNIT which accrue prior to such sale or transfer shall remain the obligation of the defaulting OWNER of the UNIT.

Section 13.5. Subordination of Certain Liens to First Mortgage. Any lien which the ASSOCIATION may have on a UNIT for the payment of assessments or other charges becoming payable on or after the date of the recording of the FIRST MORTGAGE on the UNIT shall be subordinate to the FIRST MORTGAGE.

Section 13.6. Right of Inspection of Records. Any OWNER, FIRST MORTGAGEE or ELIGIBLE INSURER or GUARANTOR will, upon written request, be entitled to (a) inspect the current copies of the CONDOMINIUM DOCUMENTS and the books, records and financial statements of the ASSOCIATION during normal business hours, (b) receive within ninety (90) days following the end of any fiscal year of the ASSOCIATION, an audited financial statement of the ASSOCIATION for the immediately preceding fiscal year of the ASSOCIATION, free of charge to the requesting party, and (c) receive written notice of all meetings of the MEMBERS of the ASSOCIATION and be permitted to designate a representative to attend all such meetings.

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Section 13.7. Limitation on Leasing of Units. No OWNER may lease less than his entire UNIT. No UNIT may be leased for a period of less than thirty (30) days. All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the CONDOMINIUM DOCUMENTS and any failure by any lessee to comply with the terms of such documents shall be a default under the lease.

Section 13.8. Prior Written Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the UNITS and/or the GENERAL COMMON ELEMENTS, unless at least two-thirds (2/3) of all FIRST MORTGAGEES (based upon one vote for each FIRST MORTGAGE owned) or OWNERS (other than the DECLARANT or other sponsor, developer or builder of the CONDOMINIUM) of the UNITS have given their prior written approval, the ASSOCIATION shall not be entitled to:

(a) By act or omission, seek to abandon or terminate this DECLARATION or the CONDOMINIUM;

(b) Change the pro rata interest or obligations or any individual UNIT for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share <sup>Unofficial Document</sup> of ownership of each UNIT in the GENERAL COMMON ELEMENTS;

(c) Partition or subdivide any UNIT;

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

(e) Use hazard insurance proceeds for losses to any UNITS or the GENERAL COMMON ELEMENTS for any purpose other than the repair, replacement or reconstruction of such UNITS or the GENERAL COMMON ELEMENTS.

Nothing contained in this Section 13.8 or any other provision of this DECLARATION shall be deemed to grant the ASSOCIATION the right to partition any UNIT without the consent of the OWNERS thereof. Any partition of a UNIT shall be subject to such limitations and prohibitions as may be set forth elsewhere in this DECLARATION or as provided under Arizona law.

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Section 13.9. Liens Prior to First Mortgage. All taxes, assessments, and charges which may become liens prior to the FIRST MORTGAGE under local law shall relate only to the individual UNIT and not to the CONDOMINIUM as a whole.

Section 13.10. Condemnation or Insurance Proceeds. No OWNER of a UNIT, or any other party, shall have priority over any rights of any FIRST MORTGAGEE of the UNIT pursuant to its mortgage in the case of a distribution to such UNIT OWNER of insurance proceeds of condemnation awards for losses to or a taking of UNITS and/or GENERAL COMMON ELEMENTS.

Section 13.11. Limitation on Partition and Subdivision. No UNIT shall be partitioned or subdivided without the prior written approval of the holder of any FIRST MORTGAGE on such UNIT.

Section 13.12. Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article and any other provision of the CONDOMINIUM DOCUMENTS, the provisions of this Article shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this Article or between the provisions of this Article and any other provision of the CONDOMINIUM DOCUMENTS with respect to the number or percentage of OWNERS, FIRST MORTGAGEES, ELIGIBLE MORTGAGE HOLDERS or ELIGIBLE INSURERS OR GUARANTORS that must consent to (i) an amendment of the DECLARATION, ARTICLES or BYLAWS, (ii) a termination of the Horizontal Property Regime, or (iii) certain actions of the ASSOCIATION as specified in Sections 13.1, 13.2 and 13.8 of this DECLARATION, the provision requiring the consent of the greatest number or percentage of OWNERS, FIRST MORTGAGEES, ELIGIBLE MORTGAGE HOLDERS or ELIGIBLE INSURERS OR GUARANTORS shall prevail.

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## ARTICLE XIV

TERMINATION OF THE HORIZONTAL  
PROPERTY REGIME

Section 14.0 Method of Termination. Notwithstanding any contrary provision of the CONDOMINIUM DOCUMENTS, the Horizontal Property Regime created by the recording of this DECLARATION may only be terminated with the approval of all of the OWNERS of the UNITS. Any such termination of the Horizontal Property Regime shall be evidenced by a Declaration of Withdrawal which shall be executed and acknowledged by all of the OWNERS and recorded with the County Recorder of Maricopa County, Arizona. If at the time of such termination there are any encumbrances or liens against any of the UNITS, the Declaration of Withdrawal will be effective only when the creditors holding such encumbrances or liens execute and acknowledge such Declaration of Withdrawal or their encumbrances or liens are satisfied other than by foreclosure against the UNITS or expire by operation by law. No termination of the Horizontal Property Regime shall be a bar to any subsequent commitment of the CONDOMINIUM to a Horizontal Property Regime. So long as there is a Class B membership in the ASSOCIATION, any termination Unofficial Document of the Horizontal Property Regime must be approved by the Veterans Administration or the Federal Housing Administration. Any termination of the Horizontal Property Regime must also comply with the requirements of Article XIII of this DECLARATION.

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## ARTICLE XV

## GENERAL PROVISIONS

Section 15.0. Enforcement. The ASSOCIATION, or any OWNER, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the CONDOMINIUM DOCUMENTS. Failure by the ASSOCIATION or by any OWNER to enforce any covenant or restriction contained in the CONDOMINIUM DOCUMENTS shall in no event be deemed a waiver of the right to do so thereafter.

Section 15.1. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 15.2. Duration. The covenants and restrictions of this DECLARATION shall run with and bind the CONDOMINIUM, for a term of twenty (20) years from the date this DECLARATION is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 15.3. Amendment By Owners. This DECLARATION may be amended during the <sup>Unofficial Document</sup> first twenty (20) year period by an instrument signed by OWNERS representing not less than ninety percent (90%) of the UNITS, and thereafter by an instrument signed by OWNERS representing not less than seventy-five percent (75%) of the UNITS. Any Amendment must be recorded. So long as there is a Class B membership in the ASSOCIATION, any amendment must be approved by the Veterans Administration or the Federal Housing Administration. Any amendment must also comply with the requirements of Article XIII of this DECLARATION.

Section 15.4. Amendment By Board. Notwithstanding anything to the contrary in this DECLARATION, the BOARD shall have the right to amend this DECLARATION without obtaining the approval or consent of any other OWNER or mortgagee in order to conform the DECLARATION to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration; provided, however, that any such amendment by the BOARD must be approved by the Veterans Administration or the Federal Housing Administration.

Section 15.5. Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

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**Section 15.6. Delivery of Notices and Documents.** Any written notice or other documents relating to or required by this DECLARATION may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the ASSOCIATION, 5402 East Windsor, Phoenix, Arizona 85008; if to the ARCHITECTURAL COMMITTEE, 5402 East Windsor, Phoenix, Arizona 85008; if to an OWNER, to the address of his UNIT within the CONDOMINIUM owned, in whole or in part, by him or to any other address last furnished by an OWNER to the ASSOCIATION; and if to DECLARANT, to 5402 East Windsor, Phoenix, Arizona 85008; provided, however, that any such address may be changed at any time by the party concerned by recording a written notice of change of address and delivering a copy thereof to the ASSOCIATION. Each OWNER of a UNIT shall file the correct mailing address of such OWNER with the ASSOCIATION, and shall promptly notify the ASSOCIATION in writing of any subsequent change of address.

**Section 15.7. Binding Effect.** By acceptance of a deed or by acquiring any ownership interest in any portion of the CONDOMINIUM, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by the CONDOMINIUM DOCUMENTS and any amendments thereof. In addition, each such person by so doing thereby acknowledges that the CONDOMINIUM DOCUMENTS set forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in the CONDOMINIUM DOCUMENTS shall run with the land and be binding on all subsequent and future OWNERS, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such person fully understands and acknowledges that the CONDOMINIUM DOCUMENTS shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future OWNERS. DECLARANT, its successors, assigns and grantees, covenants and agrees that the UNITS and the membership in the ASSOCIATION and the other rights created by the CONDOMINIUM DOCUMENTS shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective UNIT even though the description in the instrument of conveyance or encumbrance may refer only to the UNIT.

**Section 15.8. Gender.** The singular, wherever used in this DECLARATION, shall be construed to mean the plural when applicable, and the necessary grammatical

changes required to make the provisions of this DECLARATION apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 15.9. Topic Headings. The marginal or topical headings of the sections contained in this DECLARATION are for convenience only and do not define, limit or construe the contents of the sections or of this DECLARATION.

Section 15.10. Survival of Liability. The termination of membership in the ASSOCIATION shall not relieve or release any such former OWNER or MEMBER from any liability or obligation incurred under, or in any way connected with, the ASSOCIATION during the period of such ownership or membership, or impair any rights or remedies which the ASSOCIATION may have against such former OWNER or MEMBER arising out of, or in any way connected with such ownership or membership and the covenants and obligations incident thereto.

Section 15.11. Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this DECLARATION and the ARTICLES, BYLAWS, ASSOCIATION RULES or ARCHITECTURAL COMMITTEE RULES, the provisions of this DECLARATION shall prevail.

Section 15.12. Joint and Several Liability. In the case of joint ownership <sup>Unofficial Document</sup> of a UNIT, the liabilities and obligations of each of the joint OWNERS set forth in, or imposed by the CONDOMINIUM DOCUMENTS, shall be joint and several.

Section 15.13. Declarant's Exemption. Nothing contained in this DECLARATION shall be construed to prevent the erection or maintenance by DECLARANT or its duly authorized agents, of improvements or signs necessary or convenient to the development or sale of the CONDOMINIUM or the UNITS. DECLARANT and its agents and assigns specifically reserve the right to use and enjoy the GENERAL COMMON ELEMENT and all other IMPROVEMENTS and BUILDINGS and grounds in connection with its advertising, promotion and sales efforts; provided, however, that such use of the GENERAL COMMON ELEMENTS by the DECLARANT must not interfere with any OWNER'S use and enjoyment of the GENERAL COMMON ELEMENTS. So long as the DECLARANT owns any UNIT, the CONDOMINIUM DOCUMENTS may not be amended in any way which would eliminate, modify or impair the rights of the DECLARANT as set forth in this Section.

Section 15.14. Guests and Tenants. Each OWNER shall, to the extent required by Arizona law, be responsible

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for compliance by his agents, tenants, guests, invitees, licensees and their respective servants, agents and employees with the provisions of the CONDOMINIUM DOCUMENTS. An OWNERS' failure to insure compliance by such persons shall be grounds for the same action available to the ASSOCIATION or any other OWNER by reason of such OWNER's own non-compliance.

Section 15.15. Attorneys' Fees. In the event the DECLARANT, the ASSOCIATION or any OWNER employs an attorney or attorneys to enforce a lien or to collect any amounts due from an OWNER or to enforce compliance with or recover damages for any violation or non-compliance with the CONDOMINIUM DOCUMENTS, the prevailing party in any such action shall be entitled to recover from the other party their reasonable attorneys' fees incurred in the action.

Section 15.16. Management Agreements. Any agreement for professional management of the ASSOCIATION or the CONDOMINIUM or any other contract providing for services of the DECLARANT, or other developer, sponsor or builder of the CONDOMINIUM shall not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on thirty (30) days or less written notice.

Section 15.17. Unofficial Document of Days. In computing the number of days for purposes of any provision of the CONDOMINIUM DOCUMENTS all days shall be counted including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

Section 15.18. Declarant's Right to Use Similar Name. The ASSOCIATION hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by DECLARANT of a corporate name which is the same or deceptively similar to the name of the ASSOCIATION provided one or more words are added to the name of such other corporation to make the name of the ASSOCIATION distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the DECLARANT the ASSOCIATION shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other nonprofit corporation formed or incorporated by the DECLARANT to use a corporate name which is the same or deceptively similar to the name of the ASSOCIATION.



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IN WITNESS WHEREOF, the undersigned, being the DECLARANT herein, have hereunto set their hand and seal this 23<sup>rd</sup> day of Aug -, 1983.

George C. Knoll  
GEORGE C. KNOLL

Richard B. Jordan  
RICHARD B. JORDAN

STATE OF ARIZONA            )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of August, 1983, by George C. Knoll.

Unofficial Document

Lisa Boyle Ray  
Notary Public  
Lisa Boyle Ray

My Commission Expires  
My Commission Expires June 16, 1987

STATE OF ARIZONA            )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of August, 1983, by Richard B. Jordan.

Lisa Boyle Ray  
Notary Public  
Lisa Boyle Ray

My Commission Expires:  
My Commission Expires June 16, 1987

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LIENHOLDER CONSENT

United Bank of Arizona, an Arizona corporation, being the holder of a lien on the real property described on Exhibits A and B attached hereto, hereby consents to and approves the foregoing Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for Windsor Gardens.

UNITED BANK OF ARIZONA, an  
Arizona corporation

By: 

Its: RAY R. RAIMONDI  
SENIOR VICE PRESIDENT.

STATE OF ARIZONA        )  
                                  ) ss.  
County of Maricopa     )

Subscribed and sworn before me this 23rd day of AUGUST, 1983, by RAY R. RAIMONDI, who acknowledged himself to be the SENIOR VICE PRESIDENT of United Bank of Arizona, an Arizona corporation, and that he, as such officer being authorized to do so, executed the above instrument for and on behalf of the corporation for the purposes therein set forth.



My Commission Expires July 14, 1987

## EXHIBIT A

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That part of the Northeast quarter of the Northeast quarter of Section 32, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, also being that part of Lots 5 and 6 of Orangedale Place, as recorded in Book 16, Page 41 of the Maricopa County Recorder's Office, Arizona, more particularly described as follows:

BEGINNING at the Northeast corner of said Section 32;  
 thence South  $89^{\circ}50'01''$  West along the North line of the Northeast quarter of said Section 32, a distance of 1,312.55 feet to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 32;

thence South along the West line of the Northeast quarter of the Northeast quarter of said Section 32, a distance of 423.00 feet;

thence North  $89^{\circ}50'01''$  East, a distance of 25.00 feet to the Southwest corner of the North 390 feet of Lots 5 and 6 of said Orangedale Place and also being the TRUE POINT OF BEGINNING;

thence North  $89^{\circ}50'01''$  East along the South line of the North 390 feet of Lots 5 and 6 of said Orangedale Place, a distance of 508.75 feet;

thence South  $00^{\circ}08'36''$  East, a distance of 14.56 feet;

thence South  $89^{\circ}51'24''$  West, a distance of 12.00 feet to the beginning of a curve concave to the Southeast and having a radius of 2.00 feet;

thence Southwesterly along the arc of said curve, a distance of 3.14 feet through a central angle of  $90^{\circ}00'00''$ ;

thence South  $00^{\circ}08'36''$  East, a distance of 175.21 feet;

thence South  $08^{\circ}33'08''$  East, a distance of 20.51 feet to the North right-of-way line of Windsor Avenue;

thence South  $89^{\circ}51'24''$  West along said North right-of-way line, a distance of 30.00 feet;

thence North  $08^{\circ}38'31''$  East, a distance of 19.64 feet;

thence North  $00^{\circ}08'36''$  West, a distance of 170.09 feet to the beginning of a curve concave to the Southwest and having a radius of 2.00 feet;

thence Northwesterly along the arc of said curve, a distance of 3.14 feet through a central angle of  $90^{\circ}00'00''$ ;

thence South  $89^{\circ}51'24''$  West, a distance of 108.23 feet to the beginning of a curve concave to the South, and having a radius of 4.00 feet;

thence Westerly along the arc of said curve, a distance of 1.40 feet through a central angle of  $20^{\circ}00'00''$ ;

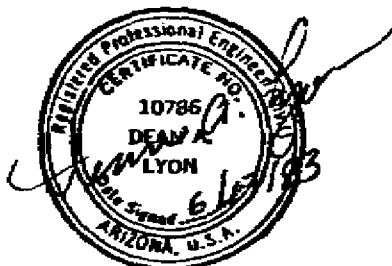
thence South  $69^{\circ}51'24''$  West, a distance of 17.77 feet to the beginning of a curve concave to the East and having a radius of 1.50 feet;

thence Southerly along the arc of said curve, a distance of 3.40 feet through a central angle of  $130^{\circ}00'00''$ ;

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thence South 60°08'36" East, a distance of 8.29 feet;  
 thence South 29°51'24" West, a distance of 10.00 feet;  
 thence North 60°08'36" West, a distance of 12.12 feet to the  
 beginning of a curve concave to the Southeast and having a radius  
 of 2.00 feet;  
 thence Southwesterly along the arc of said curve, a distance  
 of 4.19 feet through a central angle of 120°00'00";  
 thence South 00°08'36" East, a distance of 174.00 feet to the  
 North right-of-way line of Windsor Avenue;  
 thence South 89°51'24" West along said North right-of-way line,  
 a distance of 191.00 feet;  
 thence North 12°51'56" East, a distance of 13.33 feet;  
 thence North 00°08'36" West, a distance of 167.83 feet to the  
 beginning of a curve concave to the Southwest and having a radius  
 of 3.00 feet;  
 thence Northwesterly along the arc of said curve, a distance  
 of 4.77 feet through a central angle of 91°07'30";  
 thence South 88°43'54" West, a distance of 7.21 feet to the  
 beginning of a curve concave to the East and having a radius of  
 1.37 feet;  
 thence Southerly along the arc of said curve, a distance of  
 3.57 feet through a central angle of 148°52'30";  
 thence South 60°08'36" East, a distance of 8.00 feet;  
 thence South 29°51'24" West, a distance of 10.00 feet;  
 thence North 60°08'36" West, a distance of 28.66 feet to the  
 beginning of a curve concave to the Southwest and having a radius  
 of 3.00 feet;  
 thence Northwesterly along the arc of said curve, a distance of  
 1.63 feet through a central angle of 31°07'30";  
 thence South 88°43'54" West, a distance of 70.66 feet;  
 thence South 87°09'27" West, a distance of 37.00 feet to the  
 East right-of-way line of North 54th Street also being the West  
 line of Lot 5 of said Orangedale Place;  
 thence North along said West line, a distance of 31.81 feet  
 to the TRUE POINT OF BEGINNING;

Said parcel contains 52,839.69 square feet or 1.2130 acres more or less.



## EXHIBIT B

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That part of the Northeast quarter of the Northeast quarter of Section 32, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona being also that part of Lots 5 and 6 of Orangedale Place as recorded in Book 16, Page 41 of the Maricopa County Recorder's Office, Arizona, more particularly described as follows:

BEGINNING at the Northeast corner of said Section 32;

thence South  $89^{\circ}50'01''$  West along the North line of the Northeast quarter of said Section 32, a distance of 1,312.55 feet to the Northwest corner of the Northeast quarter of the Northeast quarter of said Section 32;

thence South along the West line of the Northeast quarter of the Northeast quarter of said Section 32, a distance of 423.00 feet;

thence North  $89^{\circ}50'01''$  East, a distance of 25.00 feet to Point "A" also being the Southwest corner of the North 390 feet of Lots 5 and 6 of said Orangedale Place and also being on the East right-of-way line of North 54th Street;

thence South along said East right-of-way line, a distance of 31.81 feet to the TRUE POINT OF BEGINNING;

thence North  $87^{\circ}09'27''$  East, a distance of 37.00 feet;

thence North  $88^{\circ}43'54''$  East, a distance of 70.66 feet to the beginning of curve concave to the Southwest and having a radius of 3.00 feet;

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thence Southeasterly along the arc of said curve, a distance of 1.63 feet through a central angle of  $31^{\circ}07'30''$ ;

thence South  $60^{\circ}08'36''$  East, a distance of 28.66 feet;

thence North  $29^{\circ}51'24''$  East, a distance of 10.00 feet;

thence North  $60^{\circ}08'36''$  West, a distance of 8.00 feet to the beginning of a curve concave to the East and having a radius of 1.37 feet;

thence Northerly along the arc of said curve, a distance of 3.57 feet through a central angle of  $148^{\circ}52'30''$ ;

thence North  $88^{\circ}43'54''$  East, a distance of 7.21 feet to the beginning of a curve concave to the Southwest and having a radius of 3.00 feet;

thence Southeasterly along the arc of said curve, a distance of 4.77 feet through a central angle of  $91^{\circ}07'30''$ ;

thence South  $00^{\circ}08'36''$  East, a distance of 167.83 feet;

thence South  $12^{\circ}51'56''$  West, a distance of 13.33 feet to Point "B", said Point "B" also being on the North right-of-way line of Windsor Avenue;

thence South  $89^{\circ}51'24''$  West along said North right-of-way line, a distance of 128.43 feet to the beginning of a curve concave to the Northeast and having a radius of 11.97 feet;

thence Northwesterly along the arc of said curve, a distance of 18.83 feet through a central angle of  $90^{\circ}08'36''$  and having a tangent of 12.00 feet to the East right-of-way line of North 54th Street;

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thence North along said East right-of-way line, a distance of 168.05 feet to the TRUE POINT OF BEGINNING together with the following:

BEGINNING at above described Point "B";

thence North  $89^{\circ}51'24''$  East along the North right-of-way line of Windsor Avenue, a distance of 191.00 feet to the TRUE POINT OF BEGINNING;

thence North  $00^{\circ}08'36''$  West, a distance of 174.00 feet to the beginning of a curve concave to the Southeast and having a radius of 2.00 feet;

thence Northeasterly along the arc of said curve, a distance of 4.19 feet through a central angle of  $120^{\circ}00'00''$ ;

thence South  $60^{\circ}08'36''$  East, a distance of 12.12 feet;

thence North  $29^{\circ}51'24''$  East, a distance of 10.00 feet;

thence North  $60^{\circ}08'36''$  West, a distance of 8.29 feet to the beginning of a curve concave to the East and having a radius of 1.50 feet;

thence Northerly along the arc of said curve, a distance of 3.40 feet through a central angle of  $130^{\circ}00'00''$ ;

thence North  $69^{\circ}51'24''$  East, a distance of 17.77 feet to the beginning of a curve concave to the South and having a radius of 4.00 feet;

thence Easterly along the arc of said curve, a distance of 1.40 feet through a central angle of  $20^{\circ}00'00''$ ;

thence North  $89^{\circ}51'24''$  East, a distance of 108.23 feet to the beginning of a curve concave to the Southwest and having a radius of 2.00 feet;

thence Southeasterly along the arc of said curve, a distance of 3.14 feet through a central angle of  $90^{\circ}00'00''$ ;

thence South  $00^{\circ}08'36''$  East, a distance of 170.09 feet;

thence South  $08^{\circ}38'31''$  West, a distance of 19.64 feet to the North right-of-way line of Windsor Avenue;

thence South  $89^{\circ}51'24''$  West along said North right-of-way line, a distance of 136.86 feet to the TRUE POINT OF BEGINNING also together with the following:

BEGINNING at above described Point "A";

thence North  $89^{\circ}50'01''$  East along the South line of the North 390 feet of Lots 5 and 6 of said Orangedale Place, a distance of 508.75 feet to the TRUE POINT OF BEGINNING;

thence North  $89^{\circ}50'01''$  East along said South line, a distance of 119.08 feet;

thence South  $00^{\circ}04'32''$  East, a distance of 212.11 feet to the North right-of-way line of Windsor Avenue;

thence South  $89^{\circ}51'24''$  West along said North right-of-way line, a distance of 129.82 feet;

thence North  $08^{\circ}33'08''$  West, a distance of 20.51 feet;

thence North  $00^{\circ}08'36''$  West, a distance of 175.21 feet to the beginning of a curve concave to the Southeast and having a radius of 2.00 feet;

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thence Northeasterly along the arc of said curve, a distance of 3.14 feet through a central angle of  $90^{\circ}00'00''$ ;  
thence North  $89^{\circ}51'24''$  East, a distance of 12.00 feet;  
thence North  $00^{\circ}08'36''$  West, a distance of 14.56 feet to the TRUE POINT OF BEGINNING;

Said above parcels contain 80,248.00 square feet or 1.8422 acres more or less.

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6/16/83