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DECLARATION OF CONDOMINIUM AND OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA CONDOMINIUMS

MARICOPA COUNTY, ARIZONA

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TABLE OF CONTENTS
FOR
DECLARATION OF CONDOMINIUM AND OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CASABELLA CONDOMINIUMS

ARTICLE 1 DEFINITIONS 1

1.0 General Definitions 1
1.1 Defined Terms 1

ARTICLE 2 SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES 5

2.0 Submission of Property 5
2.1 Unit Boundaries 5
2.2 Allocation of Common Element Interest 6
2.3 Allocation of Common Expense Liabilities 6
2.4 Allocation of Votes in the Association 6
2.5 Allocation of Limited Common Elements 6

ARTICLE 3 EASEMENTS 7

3.0 Utility Easements 7
3.1 Easements for Ingress and Egress 7
3.2 Unit Owners' Easements of Enjoyment 8
3.3 Declarant's Use for Sales and Leasing Purposes 9
3.4 Declarant's Easements 9
3.5 Easement for Support 10
3.6 Common Elements Easement in Favor of the Association 10
3.7 Common Elements Easement in Favor of Unit Owners 10
3.8 Units and Limited Common Elements Easement in Favor of Association 11
3.9 Easement for Unintended Encroachments 11

ARTICLE 4 USE AND OCCUPANCY RESTRICTIONS 12

4.0 Single Family Residential Use 12
4.1 Antennas 12
4.2 Utility Service 12
4.3 Improvements and Alterations 13
4.4 Trash Containers and Collection 13
4.5 Machinery and Equipment 13
4.6 Animals 13
4.7 Temporary Occupancy 14

980429408
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4.8 Clothes Drying Facilities 14
4.9 Mineral Exploration 14
4.10 Environmental Restrictions 14
4.11 Diseases and Insects 14
4.12 General Restrictions Regarding the Parking of Vehicles 15
4.13 Garage Parking Space Assignment Restrictions 15
4.14 Motor Vehicle Repair and Towing of Vehicles 15
4.15 Signs 16
4.16 Lawful Use 16
4.17 Nuisances and Offensive Activity 16
4.18 Window Coverings 16
4.19 Limitation on Leasing of Units 16
4.20 Community Privacy Measures 16
4.21 Variances 17

ARTICLE 5 MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS 17

5.0 Duties of the Association 17
5.1 Duties of Unit Owners 18
5.2 Repair or Restoration Necessitated by Unit Owner 19
5.3 Unit Owner's Failure to Maintain 19

ARTICLE 6 THE ASSOCIATION; RIGHTS AND DUTIES; MEMBERSHIP 20

6.0 Rights, Powers and Duties of the Association 20
6.1 Directors and Officers 20
6.2 Rules 21
6.3 Composition of Members 21
6.4 Master Association 21

ARTICLE 7 ASSESSMENTS 22

7.0 Preparation of Budget 22
7.1 Common Expense Assessment 22
7.2 Special Assessments 24
7.3 Notice and Quorum for Any Action Authorized Under Section 7.1 or 7.2 24
7.4 Effect of Nonpayment of Assessments; Remedies of the Association 24
7.5 Subordination of Assessment Lien to Mortgages 25
7.6 Exemption of Unit Owner 25
7.7 Certificate of Payment 25
7.8 No Offsets 26
7.9 Surplus Funds 26
7.10 Monetary Penalties 26
7.11 Working Capital Fund 26

980429408
980583796

ARTICLE 8 INSURANCE 26

8.0 Scope of Coverage 26
8.1 Payment of Premiums 28
8.2 Insurance Obtained by Unit Owners 28
8.3 Payment of Insurance Proceeds 28
8.4 Certificate of Insurance 29

ARTICLE 9 RIGHTS OF FIRST MORTGAGEES 29

9.0 Notification to First Mortgagees 29
9.1 Approval Required for Amendment to Condominium Documents 29
9.2 Prohibition Against Right of First Refusal 31
9.3 Right of Inspection of Records 31
9.4 Prior Written Approval of First Mortgagees 31
9.5 Liens Prior to First Mortgage 32
9.6 Condemnation or Insurance Proceeds 32
9.7 Limitation on Partition and Subdivision 32
9.8 Conflicting Provisions 32

ARTICLE 10 GENERAL PROVISIONS 33

10.0 Enforcement 33
10.1 Severability 33
10.2 Duration 33
10.3 Termination of Condominium 33
10.4 Amendment 33
10.5 Remedies Cumulative 34
10.6 Notices 34
10.7 Binding Effect 35
10.8 Gender 35
10.9 Topic Headings 35
10.10 Survival of Liability 35
10.11 Construction 35
10.12 Joint and Several Liability 35
10.13 Guests and Tenants 36
10.14 Attorneys' Fees 36
10.15 Number of Days 36
10.16 Notice of Violation 36
10.17 Declarant's Disclaimer of Representations 36
10.18 No Absolute Liability 36

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DECLARATION OF CONDOMINIUM AND OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA CONDOMINIUMS

THIS DECLARATION OF CONDOMINIUM AND OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CASABELLA CONDOMINIUMS is made this 21st day of May, 1998 by **CASABELLA CONDOMINIUM VENTURES LIMITED PARTNERSHIP,** an Arizona limited partnership (the "Declarant").

ARTICLE I

DEFINITIONS

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

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

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

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

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

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

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

(F) "Building" means any structure designated as a building on the Plat, including, without limitation, all Buildings containing residential Units and buildings containing the Garage parking spaces ("Garage Buildings").

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

(H) "Common Elements" means all portions of the Condominium other than the Units, including, without limitation, any recreational amenities, structural portions of Buildings not comprising the Units, Garage Buildings, walkway areas, and private drives.

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

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

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

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

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

(N) "Declarant" means **CASABELLA CONDOMINIUM VENTURES LIMITED PARTNERSHIP**, an Arizona limited partnership, and any Person to whom it may transfer any Special Declarant Right.

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

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

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

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

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

(iv) Amend the Condominium Documents during the Period of Declarant Control as provided in Section 10.4(D) below.

(Q) "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters in accordance with Section 9.0 of this Declaration.

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

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

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

(U) "Improvement" means all physical structures including, but not limited to, residential Buildings and Garage Buildings, parking areas, driveways, recreational amenities (including pools, spa, gazebo, tennis court, barbecues, and clubhouse Building), fences and walls, privacy gates, if any, trash receptacles, cluster mailboxes, and all landscaping, including, but not limited to, hedges, plantings, trees and shrubs of every type and kind.

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

(W) "Master Association" mean the McCormick Ranch Property Owners' Association, Inc., an Arizona nonprofit corporation, pursuant to the provisions of the Master Declaration.

(X) "Master Declaration" means the Declaration of Covenants, Conditions, Assessments, Charges, Servitudes, Liens, Reservations, and Easements for McCormick Ranch recorded on December 29, 1971 at Docket 9148, pages 706 et seq. and amended at Docket 12749, page 676 et seq.; the Supplemental Declaration of Covenants recorded at Docket 13572, page 860 et seq.; and that certain Declaration of Restrictions recorded on April 17, 1979 at Docket 13472, page 863 et seq., as such Declarations may be amended from time to time.

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

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

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

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

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

(BB) "Plat" means the condominium plat for Casabella Condominiums, recorded on May 22, 1998, in Book 470 of Maps, page 35, Official Records of the Maricopa County, Arizona Recorder, and any amendments, supplements, or corrections thereto.

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

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

(EE) "Single Family" means 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.

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

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

(ii) Exercise any Development Right;

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

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

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

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

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

ARTICLE 2

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

2.0 Submission of Property. The real property described on Exhibit A attached to this Declaration and on the Plat, together with all Improvements, easements, rights and appurtenances thereto, is hereby submitted to a Condominium in accordance with the provisions of the Condominium Act. The Identifying Numbers of the Units submitted to the Condominium are those Units consecutively numbered 1001 through 1084, inclusive, 2002 through 2005, inclusive, 2007 through 2010, inclusive, 2012 through 2025, inclusive, 2027 through 2030, inclusive, 2032 through 2039, inclusive, 2042 through 2050, inclusive, 2052 through 2055, inclusive, 2057 through 2060, inclusive, 2062 through 2069, inclusive, 2071 through 2074, inclusive, and 2077 through 2083, inclusive, as shown on the Plat.

2.1 Unit Boundaries.

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

(B) If any chute, flue, duct, wire, conduit, bearing wall, bearing column, heating or air conditioning unit or apparatus or other fixture lies partially within and partially outside the

boundaries of a Unit, any portion serving only that Unit is a Limited Common Element allocated solely to that Unit and any portion serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

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

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

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

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

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

2.2 Allocation of Common Element Interest. The undivided interests in the Common Elements of the Association shall be allocated equally among the Units. Accordingly, each Unit's percentage interest in the Common Elements shall be one one hundred fifty-fourth (1/154).

2.3 Allocation of Common Expense Liabilities. The undivided interest in the Common Expense Liability of the Association shall be allocated equally among the Units, with each Unit responsible for one one hundred fifty-fourth (1/154) of the Common Expense Liability.

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

2.5 Allocation of Limited Common Elements.

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

(i) Each first floor Unit is allocated the covered patio adjoining or attached to the Unit as shown on the Plat and each second floor Unit is allocated the covered balcony area adjoining or attached to the Unit as shown on the Plat.

(iii) Any gas, electric or water meter which serves only one Unit is allocated to the Unit it serves.

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

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

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

ARTICLE 3

EASEMENTS

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

3.1 Easements for Ingress and Egress. There is hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes that from time to time may exist upon the Common Elements. There is also created an easement for ingress and egress for pedestrian and vehicular traffic, including, without limitation, emergency access and utility repair vehicles, over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes except that such easements shall not extend to any Limited Common Elements or assigned parking spaces, if any. Such easements shall run in favor of and be for the benefit of the Unit Owners and occupants of the Units and their guests, families, tenants and invitees.

3.2 Unit Owners' Easements of Enjoyment.

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

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

(ii) The right of the Association to suspend the voting rights of a Unit Owner for any period during which any Assessment against his Unit remains unpaid more than thirty (30) days after its due date and for a period not to exceed sixty (60) days for any other infraction or violation of the Condominium Documents;

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

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

(B) If a Unit is leased or rented, the lessee and the members of his family residing with the lessee shall have the right to use the Common Elements during the term of the lease, and the Unit Owner shall have no right to use the Common Elements until the termination or expiration of the lease.

(C) The guests and invitees of any Member or other person entitled to use the Common Elements pursuant to subsection (A) above or of any lessee who is entitled to use the Common Elements pursuant to subsection (B) above may use the Common Elements provided they are accompanied by a Member, lessee or other person entitled to use the Common Elements pursuant to subsection (A) or (B) above. The Board of Directors shall have the right to limit the number of guests and invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by guests and invitees to specific times.

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

(E) The provisions of this section shall not apply to any of the Limited Common Elements that are allocated to one or more, but less than all, of the Units.

3.3 Declarant's Use for Sales and Leasing Purposes.

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

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

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

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

3.4 Declarant's Easements.

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

(B) Declarant shall have the right and an easement on, over and under those portions of the Common Elements not located within the Buildings for the purpose of maintaining and

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

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

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

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

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

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

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

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

(C) For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit, the bottom surface of floor joists above the Unit and the top surface of the floor joists below the

Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building.

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

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

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

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

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

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

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

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

3.9 Easement for Unintended Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element as a result of original construction, alteration or restoration authorized by this Declaration, settling or shifting, or any reason other than the intentional encroachment on the Common Elements or any Unit by a Unit Owner, a valid easement for the encroachment, and for the maintenance thereof, exists.

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ARTICLE 4

USE AND OCCUPANCY RESTRICTIONS

4.0 Single Family Residential Use. All Units and Limited Common Elements shall be used, improved and devoted exclusively to residential use by a Single Family. No gainful occupation, profession, trade or other nonresidential use shall be conducted on or in any Unit or Limited Common Element, but a Unit Owner or other resident may conduct a business activity within a Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the Condominium; (iii) the business activity does not involve persons coming to the Unit or the door-to-door solicitation of Unit Owners or other residents in the Condominium; (iv) the trade or business conducted by the Unit Owner or resident shall not require more than one (1) employee working in or from such Unit who is not a lawful resident thereof; (v) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or parking violations; (vi) the trade or business does not use flammable liquids or hazardous materials in quantities not customary for residential use; and (vii) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of Unit Owners or other residents in the Condominium, as may be determined from time to time in the sole discretion of the Board of Directors. The terms "business" and "trade" as used in this section shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended or does generate a profit; or (iii) a license is required for such activity. The leasing of a Unit by the Unit Owner thereof shall not be considered a trade or business within the meaning of this section.

4.1 Antennas. No Unit Owner may erect, use or maintain any antenna, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electro-magnetic radiation outside of his Unit or visible from the exterior of his Unit, whether attached to a Building or structure or otherwise, unless approved by the Board.

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

4.3 Improvements and Alterations.

(A) No Person shall make any structural additions, alterations or improvements within a Unit, unless prior to the commencement of each addition, alteration or improvement, the Unit Owner receives the prior written approval of the Board and the Owner retains an architect or engineer licensed in Arizona who certifies that such addition, alteration or improvement will not impair the structural integrity of the Building within which such addition, alteration or improvement is to be made. The Unit Owner shall, to the extent, permitted by Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations or improvements.

(B) Any Unit Owner may make nonstructural additions, alterations and improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall, to the extent permitted under Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such alterations, additions or improvements.

(C) Notwithstanding the foregoing, no addition, alteration or improvement within a Unit, whether structural or not, which would be visible from the exterior of the Building in which the Unit is located, shall be made without the prior written consent of the Board, which approval shall only be granted if the Board affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding Improvements.

4.4 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 Board or as are provided by the City of Scottsdale. The Board of Directors shall have the right to subscribe to a private trash service as a Common Expense Liability for the use and benefit of the Association and all Unit Owners, and to adopt and promulgate Rules 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 or the City of Scottsdale. No incinerators shall be kept or maintained in any Unit.

4.5 Machinery and Equipment. No Unit Owner may place, operate or maintain machinery or equipment of any kind upon the Condominium other than usual and customary machinery and equipment used in connection with the Owner's permitted uses of his Unit and Limited Common Elements. This Section 4.5 shall not apply to any such machinery or equipment which Declarant or the Association may require for the construction, improvement, operation and maintenance of the Common Elements.

4.6 Animals. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house pets, shall be maintained in or on the Condominium and then only if such house pets are kept or raised solely as domestic pets (and not for commercial purposes) within an Owner's Unit and Limited Common Elements allocated thereto. No house pet shall exceed forty (40) pounds in weight, unless such pet is used to aid a handicapped resident and in no event may more than two (2) dogs occupy any Unit regardless of size or weight. No pet or other animal shall be allowed to make an unreasonable amount of noise, cause an odor, or

to become a nuisance. All dogs or other house pets permitted hereunder and capable of being walked on a leash shall be kept on a leash not to exceed six (6) feet in length when outside a Unit, and all pets shall be directly under the Unit Owner's control at all times. No Unit Owner or any other lawful resident or guest or invitee thereof shall permit any such pet being kept in the Unit or the Limited Common Elements allocated to the Unit to relieve itself on any portion of the Common Elements; it being understood that it shall be the responsibility of such person to immediately remove any droppings from pets. No structure for the care, housing, confinement, or training of any animal or pet shall be maintained on any portion of the Common Elements or in any Unit so as to be visible from the exterior of the Building in which the Unit is located. Upon the written request of any Unit Owner, the Board of Directors shall determine whether, for the purposes of this section, a particular animal or bird is a generally recognized house pet, a nuisance, or whether the number of pets in any Unit or the Limited Common Elements allocated thereto is reasonable. The right of Unit Owners and other occupants of Units to maintain a reasonable number of house pets in or on the Condominium pursuant to this section is expressly subject to the right of the Board of Directors to restrict such house pets to only certain portions of the Condominium and to prospectively further restrict the size and number of dogs or other pets which may be maintained or kept in the Units or the Limited Common Elements allocated thereto.

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

4.8 Clothes Drying Facilities. No clotheslines or other facilities for drying or airing clothes shall be erected, placed or maintained on the Condominium exterior of any Unit, including, without limitation, on any porches or balconies.

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

4.10 Environmental Restrictions. All residents of the Condominium shall be responsible for complying with all federal and state environmental and health laws. Without limiting the foregoing, no Unit Owner or other resident may dispose of, transport, or store "hazardous materials" in his Unit or elsewhere in the Condominium other than small amounts of ordinary household non-combustible cleaning agents maintained in the Unit or Limited Common Element storage areas and in no event may any Unit Owner or resident dispose of any hazardous materials, including without limitation, motor oil, hydrocarbons, or other petroleum products, in or down a dry well on or adjacent to the Condominium.

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

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

4.13 Garage Parking Space Assignment Restrictions. The Board shall assign one Garage parking space to each Unit; provided, however, the Board shall have the right to change the assignments in the exercise of its reasonable discretion to accommodate handicapped residents or those residents requiring special accommodations or to more equitably distribute the walking distances between Units and Garage parking areas. The Board shall also have the right to assign non-Garage parking space to Unit Owners to achieve the same goals. No Garage parking space or other parking space in the Condominium may be used for storage that interferes with the parking of Vehicles in the Garage space assigned to a Unit Owner except for Garage parking spaces reserved to the Association for the storage of Condominium maintenance vehicles and equipment. Unit Owners or other lawful residents of a Unit must park their Vehicles in an available assigned Garage before parking any excess or extra Vehicles in any unassigned non-Garage Common Element parking space and in no event may any Unit Owner or other lawful resident or their guests and invitees park in a Garage parking space other than the one specifically assigned to their Unit.

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

4.15 Signs. No emblem, logo, sign or billboard of any kind, including, but not limited to, "For Sale" or "For Rent" signs, (other than a Unit Owner name and address identification sign not exceeding 6 x 12 inches in size on the door of a Unit) shall be displayed so that it is visible from the exterior of any Unit or Building or any other portion of the Condominium without the prior written approval of the Board; except for: (i) signs used by Declarant to advertise the Units for sale or lease; (ii) signs on the Common Elements as may be placed or approved by the Declarant during the Period of Declarant Control, or by the Board, thereafter; (iii) any signs as may be required by legal proceedings; and (iv) such signs as are approved by the Board.

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

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

4.18 Window Coverings. No reflective materials, including, without limitation, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Unit without the prior written approval of the Board. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Unit or any Limited Common Elements allocated to a Unit shall be constructed or installed in any Unit or Limited Common Element without the prior written approval of the Board, unless the items so installed are substantially identical in color, texture and size as previously approved and installed window coverings being so replaced.

4.19 Limitation on Leasing of Units. No Unit Owner may lease less than his entire Unit. All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Condominium Documents, and any failure by the lessee to comply with the terms of the Condominium Documents shall be a default under the lease. Upon leasing his Unit, a Unit Owner shall promptly notify the Association of the commencement date and termination date of the lease and the names of each lessee or other person who will be occupying the Unit during the term of the lease. Nothing contained in this Paragraph 4.19 shall be construed as limiting or in any way affecting any leasing program operated by Declarant in the Condominium with regard to its Units.

4.20 Community Privacy Measures. Each Unit Owner understands and agrees that neither the Association (nor its officers, directors, employees, and agents) nor the Declarant (nor its officers, directors, employees and agents) is responsible for the acts and omissions of any third parties or of any other Owner or Owner's family members, guests, tenants and invitees resulting in damages or injury to person or property. Any entry/privacy gate features or common privacy

measures that may be used in the Condominium (as installed by Declarant, at its option, or by the Board on behalf of the Association) will be maintained by the Association, and each Unit Owner understands that any entry/privacy gate features that are in effect at the time he becomes a Unit Owner may be abandoned, terminated and/or modified by a majority vote of the Board. The commencement of any such devices or controls shall not be deemed to be an assumption of any duty on the part of the Association or the Declarant with respect to the Condominium and neither Declarant, the Board (nor any committee thereof) make any representation or warranty concerning the efficacy of such devices relating to security or the ease of entry of fire, police or other emergency personnel.

4.21 Variances. Subject to the provisions of Section 6.4 below, the Board may authorize a variance from compliance with any of the provisions of this Declaration, including this Article 4, from time to time, when circumstances such as hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and must be signed by a majority of the Board. If such variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the specific matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular provision hereof covered by the variance, and only for so long as the special circumstances warranting the variance exist, nor shall it affect in any way the Unit Owner's obligation to comply with all governmental laws and regulations affecting the use of his Unit. The Board shall have the right to condition the granting of a variance as it may determine in the Board's sole discretion, including, without limitation; making a variance temporary or permanent; or requiring the removal or replacement of a non-permanent or semi-permanent structure upon the sale or other conveyance of a Unit. Moreover, because of the unique facts and circumstances surrounding each variance request, the granting of a variance in one instance or under certain terms and conditions does not mandate the granting of a variance under similar or related circumstances, terms or conditions if the experiences of the Association and the Condominium as a whole or the differences in circumstances (however slight) of a variance request from a previously approved variance lead the Board, in good faith, to disapprove a variance request in such instance.

ARTICLE 5

MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.0 Duties of the Association.

(A) The Association shall maintain, repair and make necessary improvements to all Common Elements (including the structural elements of Limited Common Elements), whether located inside or outside the Buildings, except for the specific portions of the Limited Common Elements or Common Elements which the Unit Owners are obligated to maintain pursuant to Section 5.1 of this Declaration. Without limitation, the Association shall be responsible for maintaining:

(i) residential Building exteriors and the roofs thereof;
(ii) all portions of the Garages and other parking areas but not including the Garage doors and Garage door opening systems, which shall be the sole responsibility of the Owners thereof;
(iii) the private streets and drives and sidewalks;
(iv) all Common Elements landscaping and irrigation systems,
(v) lighting and light fixtures in the Common Elements, and;
(vi) recreational areas (including the spa, pool areas and equipment, gazebo, tennis court, fitness center and clubhouse).

The cost of all such repairs, maintenance and improvements shall be a Common Expense and shall be paid for by the Association. The Board shall be the sole and absolute judge as to the appropriate maintenance of the Common Elements and the Condominium. For purposes of maintaining the Garages, the Unit Owners to whose Unit a Garage is assigned, hereby grant an easement to the Association to enter the Garages upon reasonable notice (except in the case of an emergency) for maintenance and for access to any attic access panel in a particular Garage space for purpose of access to other portions of the Garage Building.

(B) The Board, on behalf of the Association, shall administer an "HVAC Fund", the amount, terms and conditions of which shall be established by Declarant in its sole discretion. The Board shall administer repairs and allocate monies from the fund from time to time necessary to reimburse Unit Owners or residents for expenses incurred in connection with repair or replacement of HVAC systems in the Units in excess of $100 per occurrence. The fund shall apply only to those systems originally installed in the Unit and not any systems or additions thereto installed by Unit Owners or other residents of the Unit and shall be used to implement necessary repairs to a Unit's HVAC system within one year after the sale of that Unit by Declarant to a Purchaser. After the expiration of the one year maintenance period covering all Units, and the reservation of enough funds to cover all claims timely tendered within said period, regardless of whether the Board has then received the invoices therefor, any excess monies remaining in the HVAC Fund shall belong to the Association as part of its general funds, Declarant shall have no claim therefor, and each Unit Owner shall be deemed to have waived any claim or warranty against the Declarant, the Board or the Association for warranty claims or any other claims relating in any manner to the HVAC systems installed in the Units.

5.1 Duties of Unit Owners.

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

(B) Each Unit Owner, at his sole cost and expense, shall be responsible for the maintenance and repair of the Limited Common Elements allocated to his Unit pursuant to Section 2.5 of this Declaration as Limited Common Elements, including, without limitation: periodic painting of, and maintenance of the concrete slabs or finished flooring of, the patio and/or balcony (except for repair to the structural portions thereof); and maintenance, repair and replacement of all doors and windows of the Unit; the air conditioning unit (including compressors and condensers), heater and hot water heater servicing the Unit and, to the extent

not included within the categories described in this Section 5.1(B), the Limited Common Elements of the type described in Sections 2.1 (B) and (D) above.

(C) In connection with the Garage space assigned to each Unit, each Unit Owner shall be solely responsible, at his sole cost and expense, for the periodic maintenance, repair and replacement of the Garage doors serving the Garage space assigned to his Unit; periodic maintenance, repair and replacement of any mechanical and other Garage door opener device installed therein, and the periodic painting and non-structural maintenance of the interior of the Garage Building immediately adjacent to the assigned space.

(D) Each Unit Owner shall take all necessary action to keep the Limited Common Elements or Common Elements which he is obligated to maintain under this Section 5.1 clean and free from unsightly accumulations of trash, furniture in weathered or poor condition, and litter. No Unit Owner shall allow the Garage parking space to be used for storage that would interfere with or impede the parking of Vehicles in the Garage space assigned to that Owner or for the accumulation of trash or junk; provided, further, however, that upon request to the Board, the Board may allow individual Unit Owners to install work benches adjacent to the rear wall of the Garage Building. No Unit Owner may paint or change the exterior color scheme or surfacing materials of the Garage door serving the Garage space assigned to his Unit, his patio or balcony or any portion of the Limited Common Elements allocated to his Unit visible from the Common Elements or any other Unit without the prior written consent of the Board.

(E) Notwithstanding the provisions of Section 5.1(B) above, all Unit Owners who are required to repair or replace their HVAC system or any portion thereof within one year after the initial purchase of the Unit from Declarant, may apply to have such repairs undertaken under the administration of the Board. The funds needed to make such repairs or replacements shall be disbursed from the "HVAC Fund" deposited by Declarant with the Association. The Board has the sole and absolute discretion to reject the request by an Owner or other resident for repair to a Unit's HVAC system and related application for reimbursement of such expenses if such Unit Owner or resident has intentionally damaged or negligently failed to maintain the HVAC system in a reasonable manner or if there are not sufficient funds remaining in the HVAC Fund to cover such repairs or replacement.

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

5.3 Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair his Unit or any Common or Limited Common Element which he is obligated to

maintain under this Declaration, including the Garage parking space assigned to his Unit and appurtenances thereto, in the manner set forth in this Declaration and the required maintenance, repair or replacement is not performed within thirty (30) days after written notice has been given to the Unit Owner by the Association, the Association shall have the right, but not the obligation, to perform the required maintenance, repair or replacement. The cost of any such maintenance, repair or replacement shall be assessed against the nonperforming Unit Owner pursuant to Section 7.1(E) of this Declaration.

ARTICLE 6

THE ASSOCIATION; RIGHTS AND DUTIES; MEMBERSHIP

6.0 Rights, Powers and Duties of the Association. No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as a nonprofit Arizona corporation. The Association shall be the entity through which the Unit Owners shall act. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Condominium Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in this Declaration and the Condominium Act. The Association shall have the right to finance capital Improvements in the Condominium by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Unit Owners representing more than fifty percent (50%) of the votes in the Association and by Declarant during the Period of Declarant Control. Unless the Condominium Documents or the Condominium Act specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Association has the specific duty to make available to the Declarant, Eligible Mortgage Holders, Unit Owners, and Eligible Insurers or Guarantors during normal business hours, current copies of the Condominium Documents and other books, records and financial statements of the Association as may be requested from time to time by such parties. Such requests shall be in writing, and the Association shall have the right to charge for copying expenses and the reasonable cost of postage, shipping or transmission of the information requested.

6.1 Directors and Officers.

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

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

(C) The Declarant may voluntarily surrender his right to appoint and remove the members of the Board of Directors and the officers of the Association before termination of the Period of

Declarant Control, and in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

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

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

6.4 Master Association. The Condominium is part of a master planned community known as "McCormick Ranch". The terms and provisions of this Declaration and the Condominium shall be subordinate and subject to the terms and conditions of the Master Declarations and the Articles of Incorporation, Bylaws and Rules (collectively, the "Master Association Documents") of the Master Association, as such documents may from time to time be amended. Each Unit Owner shall be obligated to pay assessments and other charges to the Master Association in accordance with the Master Association Documents. All assessments and other charges due to the Association under the Condominium Documents shall be in addition to the assessments and other charges payable to the Master Association. All consents required by this Declaration of the Board shall be in addition to any consents required under the terms of the Master Declarations or the Master Association Documents for architectural approval or any other approvals. The Master Associations may delegate to the Association the power to collect, on behalf of the Master Association, those assessments or other regular and recurring charges due to the Master Association along with the Association's regular and recurring assessments or charges. Upon such collection, the Association shall promptly remit the respective portions of the same to the Master Association.

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ARTICLE 7

ASSESSMENTS

7.0 Preparation of Budget.

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

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

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

7.1 Common Expense Assessment.

(A) For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors (except for the Common Expenses which are to be assessed against less than all of the Units pursuant to subsections (E) and (F) of this section) shall be assessed against each Unit in the proportion to the Unit's Common Expense Liability as set forth in Section 2.3 of this Declaration. The amount of the Common Expense Assessment assessed pursuant to this subsection (A) shall not exceed the maximum Common

Expense Assessment for the fiscal year as computed pursuant to subsection (B) of this section. If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date designated by the Board of Directors, except that no increase in the Common Expense Assessment assessed pursuant to this subsection (A) exceeding the maximum Common Expense Assessment for such fiscal year shall become effective until approved by Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

(B) The maximum Common Expense Assessment for each fiscal year of the Association after the first full or partial fiscal year thereof shall not be greater than an amount equal to one hundred ten percent of the previous year's Common Expense Assessment established by the Board and assessed against the Units. From and after January 1 of the year immediately following the conveyance of the first Unit to a Purchaser, the Common Expense Assessment for any fiscal year of the Association may be increased by an amount greater than the maximum increase allowed in this Section 7.1(B), only by a vote of Members entitled to cast at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose. The maximum Common Expense Assessment limitations herein contained shall apply only to the amount of the Common Expense Assessment assessed pursuant to subsection (A) of this section and shall not apply to the amount of Common Expenses assessed pursuant to subsection (E) or (F) of this section.

(C) The Common Expense Assessments shall commence as to all Units sold to Purchasers in the Condominium on the first day of the month following the conveyance of the first Unit to a Purchaser and in the case of any Units owned by Declarant, within sixty (60) days after the conveyance of the first Unit to a Purchaser. The first Common Expense Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors may require that the Common Expense Assessments or Special Assessments be paid in installments. Unless otherwise directed by the Board, Common Expense Assessments shall be paid in monthly installments and shall be due and payable on the first day of each month.

(D) Except as otherwise expressly provided for in this Declaration, all Common Expenses, including, but not limited to, Common Expenses associated with the maintenance, repair and replacement of a Limited Common Element, and reserves for Common Expenses shall be assessed against all of the Units in accordance with subsection (A) of this section; provided, however, that Declarant's Common Expense Liability shall not include the cost of reserves.

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

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

(G) The Common Expense Assessment for any Unit in the Condominium on which construction has not been "substantially completed" shall be an amount equal to twenty-five percent (25%) of the Common Expense Assessment for Units which have been substantially completed. So long as any Unit owned by the Declarant qualifies for the reduced Common Expense Assessment provided for in this subsection (G), and, only if Declarant elects to pay such reduced Assessment, the Declarant shall be obligated to pay to the Association any deficiencies in the monies resulting from the Declarant having paid a reduced Common Expense Assessment and necessary for the Association to be able to timely pay all Common Expenses. Without limiting the foregoing, "substantial completion" of a Unit shall mean a Unit that is ready for immediate occupancy by a resident either by sale or lease and contains all ordinary and customary necessary kitchen, bathroom and flooring fixtures for that purpose.

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

7.3 Notice and Quorum for Any Action Authorized Under Section 7.1 or 7.2. Written notice of any meeting called for the purpose of obtaining the consent of the Members for any action for which the consent of Members is required under Sections 7.1 or 7.2 shall be sent to all Members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than fifty (50) days following the preceding meeting.

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

(A) Any Assessment, or any installment of an Assessment, which is not paid within fifteen (15) days after the Assessment first became due shall be deemed delinquent and shall bear interest from the date of the delinquency at the rate of eighteen percent (18%) per annum. In addition, the Board of Directors may establish a reasonable late fee to be charged to a Unit Owner and

assessed against his Unit as part of the Assessment Lien for each installment of an Assessment that is deemed delinquent.

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

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

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

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

7.7 Certificate of Payment. The Association, on written request, shall furnish to a lienholder, Unit Owner or Person designated by a Unit Owner, a recordable statement setting forth the amount of unpaid Assessments against his Unit. The statement shall be furnished within

twenty (20) business days after receipt of the request and is binding on the Association, the Board of Directors, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement. In addition, the Association shall furnish such statements as may be required under A.R.S. §33-1260 within the time frames set forth therein for compliance.

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

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

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

7.11 Working Capital Fund. Upon the closing of the sale of each Unit by the Declarant, the Purchaser shall pay to the Association an amount equal to one-sixth (1/6) of the Common Expense Assessment for the Unit to establish a working capital fund to meet unforeseen expenditures, to purchase any additional equipment or services by or for the Association, or, on a temporary basis, to pay Association expenses such as insurance as they come due in the ordinary course in the event there are not sufficient funds in the Association's general accounts at the time of the due date to pay such expenses; provided, however, that the Board in its discretion shall reimburse the working capital fund for such expenses incurred from Annual Assessments as they are paid by Members. Amounts paid to the Association pursuant to this Section 7.11 shall be nonrefundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

ARTICLE 8

INSURANCE

8.0 Scope of Coverage.

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

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

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

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

(iv) Directors' and officers' liability insurance covering all the directors and officers of the Association in such limits as the Board of Directors may determine from time to time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.3 Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article 8 shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold any insurance proceeds in trust for Unit Owners

and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in §33-1253 of the Condominium Act.

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

ARTICLE 9

RIGHTS OF FIRST MORTGAGEES

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

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

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

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

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

9.1 Approval Required for Amendment to Condominium Documents.

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

(i) Voting rights;

(ii) Assessments, Assessment Liens, or subordination of Assessment Liens;

(iii) Reserves for maintenance, repair and replacement of Common Elements;

(iv) Insurance or fidelity bonds;

(v) Responsibility for maintenance and repairs;

(vi) Expansion or contraction of the Condominium, or the addition of property to Condominium;

(vii) Boundaries of any Unit;

(viii) Reallocation of interests in the Common Elements or Limited Common Elements or rights to their use;

(ix) Convertibility of Units into Common Elements or of Common Elements into Units;

(x) Leasing of Units;

(xi) Imposition of any restriction on a Unit Owner's right to sell or transfer his Unit;

(xii) A decision by the Association to establish self-management when professional management had been required previously by an Eligible Mortgage Holder;

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

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

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

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

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

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

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

9.3 Right of Inspection of Records. Any Unit Owner, First Mortgagee or Eligible Insurer or Guarantor shall, upon written request, be entitled to (i) inspect the current copies of the Condominium Documents and the books, records and financial statements of the Association during normal business hours; (ii) receive within ninety (90) days following the end of any fiscal year of the Association, an audited financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings. Notwithstanding the foregoing, the Board of Directors may withhold from disclosure such books, records and documents of the Association, or portions thereof, designated under A.R.S. §33-1258 of the Condominium Act.

9.4 Prior Written Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the Units or the Common Elements, unless at least two-thirds (2/3) of all First Mortgagees (based upon one vote for each First Mortgage owned) or Unit Owners (other than the Declarant 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 of any individual Unit for the purpose of: (i) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;

(C) Partition or subdivide any Unit;

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

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

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

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

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

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

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

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ARTICLE 10

GENERAL PROVISIONS

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

10.1 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.

10.2 Duration. Except as they may be earlier terminated or amended pursuant to Sections 10.3 and 10.4 below, the covenants and restrictions of this Declaration shall run with and bind the Condominium for a term of twenty (20) years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years.

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

10.4 Amendment.

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

(B) Except to the extent expressly permitted or required by the Condominium Act, an amendment to the Declaration shall not create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any Unit, the allocated interest of a Unit, or the use as to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.

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

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

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

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

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

10.6 Notices. All notices, demands, statements or other communications required to be given or served under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed as follows: (i) if to a Unit Owner, at the address at which the Unit Owner shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Unit Owner; or (ii) if to the Association or the Declarant, to 5950 N. 78th St., Ste. 109, Scottsdale, Arizona 85250, or such other address as shall be designated by notice in writing to the Unit Owners pursuant to this section. A Unit Owner may change his address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association pursuant to this section. A notice given by mail, whether regular, certified or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three days after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Each Unit Owner shall file his

correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

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

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

10.9 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.

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

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

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

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

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

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

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

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

10.18 No Absolute Liability. No provision of the Condominium Documents shall be interpreted or construed as imposing on Unit Owners absolute liability for damage to the

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Common Elements or the Units. Unit Owners shall only be responsible for damage to the Common Elements or Units caused by the Unit Owners' negligence or intentional acts.

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

DECLARANT:

CASABELLA CONDOMINIUM VENTURES LIMITED PARTNERSHIP, an Arizona limited partnership

By: Casabella Ventures Corporation, Its General Partner

By _____
Robert A. Lyles, Its President

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 21st day of May, 1998, by ROBERT A. LYLES, the President of Casabella Ventures Corporation, the General Partner of Condominium Ventures Limited Partnership, an Arizona limited partnership, for and on behalf of said limited partnership.

_____
Notary Public

My Commission Expires:
12-18-98

NOTARY PUBLIC
STATE OF ARIZONA
County of Maricopa
SHARON MCKENZIE
My Commission Expires Dec. 18, 1998

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EXHIBIT A

Property Subject to the Condominium

Units 1001 through 1084, inclusive, Units 2002 through 2005, inclusive, 2007 through 2010, inclusive, 2012 through 2025, inclusive, 2027 through 2030, inclusive, 2032 through 2039, inclusive, 2042 through 2050, inclusive, 2052 through 2055, inclusive, 2057 through 2060, inclusive, 2062 through 2069, inclusive, 2071 through 2074, inclusive, and 2077 through 2083, inclusive, according to the Declaration of Condominium to which this Exhibit is attached and the Plat of CASABELLA CONDOMINIUMS in Book 470 of Maps, page 35, all of which were recorded in the Official Records of Maricopa County, Arizona;

also legally described as:

See **Exhibit B** attached hereto.

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EXHIBIT "B"

PARCEL NO. 1:

That portion of Section 25, Township 3 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Northeast corner of said Section 25;

thence South 04 degrees 17 minutes 09 seconds East, 1018.84 feet to the Southeast corner of ARABIAN GARDENS recorded in Book 221 of Maps, Page 24, records of Maricopa County, Arizona, being 110.00 feet West of the centerline of Pima Road as shown on the Roadway Dedication according to Docket 13359, Page 178, records of Maricopa County, Arizona, said point being the TRUE POINT OF BEGINNING and on a curve the central point of which bears North 73 degrees 58 minutes 28 seconds East 2110.00 feet distant therefrom;

thence Southerly along the arc of said curve through a central angle of 02 degrees 57 minutes 59 seconds, along said right of way an arc distance of 109.25 feet;

thence continuing along said right of way South 18 degrees 59 minutes 32 seconds East 301.16 feet;

thence leaving said right of way;

thence South 71 degrees 00 minutes 28 seconds West, 53.41 feet to a point on a non-tangent curve the central point of which bears South 71 degrees 00 minutes 28 seconds West, 112.00 feet distant therefrom;

thence along the arc of said curve through a central angle of 5 degrees 11 minutes 56 seconds an arc distance of 10.16 feet;

thence South 13 degrees 47 minutes 36 seconds East, 47.75 feet to a point marking the beginning of a tangent curve to the left, having a radius of 212.00 feet;

thence along the arc of said curve through a central angle of 3 degrees 29 minutes 45 seconds an arc distance of 12.93 feet;

thence South 84 degrees 04 minutes 20 seconds West, 109.62 feet to a point marking the beginning of a tangent curve to the right, having a radius of 200.00 feet;

thence along the arc of said curve through a central angle of 22 degrees 28 minutes 30 seconds an arc distance of 78.45 feet;

thence North 73 degrees 27 minutes 10 seconds West, 38.30 feet to a point marking the beginning of a tangent curve to the left, having a radius of 52.00 feet;

thence along the arc of said curve through a central angle of 39 degrees 39 minutes 10 seconds an arc distance of 35.99 feet;

thence South 66 degrees 53 minutes 40 seconds West, 61.45 feet to a point marking the beginning of a tangent curve to the right, having a radius of 300.00 feet;

EXHIBIT "B"

thence along the arc of said curve through a central angle of 17 degrees 35 minutes 33 seconds an arc distance of 92.11 feet;

thence South 84 degrees 29 minutes 13 seconds West, 84.78 feet to a point on the Easterly right of way line of ARABIAN TRAIL, as shown on the roadway dedication of PARADISE PARK TRAILS 2, according to Book 191 of Maps, Page 30, records of Maricopa County, Arizona, said point being on a non tangent curve, the central point of which bears South 84 degrees 29 minutes 13 seconds West, 630.00 feet distant therefrom;

thence along the arc of said curve through a central angle of 8 degrees 02 minutes 00 seconds an arc distance of 88.33 feet;

thence North 13 degrees 32 minutes 47 seconds West, 422.96 feet to the Southwest corner of said ARABIAN GARDENS;

thence North 86 degrees 57 minutes 07 seconds East along the South line of said ARABIAN GARDENS, 504.74 feet to the POINT OF BEGINNING;

EXCEPT all groundwaters underlying the surface of said land as reserved in instrument recorded in Docket 13572, Page 882, records of Maricopa County, Arizona.

PARCEL NO. 2:

That portion of Section 25, Township 3 North, Range 4 East and Section 30, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the Northeast corner of said Section 25;

thence South 04 degrees 17 minutes 09 seconds East, 1018.84 feet to the Southeast corner of ARABIAN GARDENS, recorded in Book 221 of Maps, Page 24, records of Maricopa County, Arizona, being 110.00 feet West of the center line of Pima Road as shown on the Roadway Dedication according to Docket 13359, Page 178, records of Maricopa County, Arizona, said point being on a curve the central point of which bears North 73 degrees 58 minutes 28 seconds East, 2110.00 feet distant therefrom;

thence Southerly along the arc of said curve through a central angle of 02 degrees 57 minutes 59 seconds, along said right of way an arc distance of 109.25 feet;

thence continuing along said right of way, South 18 degrees 59 minutes 32 seconds East, 301.16 feet to the TRUE POINT OF BEGINNING;

thence continuing along said right of way, South 18 degrees 59 minutes 32 seconds East, 519.14 feet;

thence leaving said right of way;

thence South 70 degrees 05 minutes 01 seconds West, 116.78 feet;

EXHIBIT "B "

thence South 81 degrees 49 minutes 51 seconds West, 122.76 feet;

thence North 32 degrees 53 minutes 04 seconds West, 6.58 feet;

thence South 74 degrees 00 minutes 00 seconds West, 115.00 feet;

thence South 29 degrees 00 minutes 00 seconds West, 18.55 feet;

thence South 72 degrees 02 minutes 29 seconds West, 101.72 feet;

thence North 88 degrees 00 minutes 00 seconds West, 105.83 feet;

thence North 82 degrees 19 minutes 35 seconds West, 101.78 feet;

thence North 67 degrees 19 minutes 39 seconds West, 135.70 feet to a point on the Easterly right of way line of ARABIAN TRAIL, as shown on the Roadway Dedication of PARADISE PARK TRAILS 2, according to Book 191 of Maps, Page 30, records of Maricopa County, Arizona;

thence along said right of way North 22 degrees 40 minutes 21 seconds East, 122.22 feet to a point marking the beginning of a tangent curve to the left, having a radius of 630.00 feet;

thence along the arc of said curve through a central angle of 28 degrees 11 minutes 08 seconds an arc distance of 309.92 feet;

thence leaving said right of way;

thence North 84 degrees 29 minutes 13 seconds East, 84.78 feet to a point marking the beginning of a tangent curve to the left, having a radius of 300.00 feet;

thence along the arc of said curve through a central angle of 17 degrees 35 minutes 33 seconds an arc distance of 92.11 feet;

thence North 66 degrees 53 minutes 40 seconds East, 61.45 feet to a point marking the beginning of a tangent curve to the right, having a radius of 52.00 feet;

thence along the arc of said curve through a central angle of 39 degrees 39 minutes 10 seconds an arc distance of 35.99 feet;

thence South 73 degrees 27 minutes 10 seconds East, 38.30 feet to a point marking the beginning of a tangent curve to the left, having a radius of 200.00 feet;

thence along the arc of said curve through a central angle of 22 degrees 28 minutes 30 seconds an arc distance of 78.45 feet;

thence North 84 degrees 04 minutes 20 seconds East, 109.62 feet to a point on a non tangent curve the central point of which bears North 79 degrees 42 minutes 09 seconds East, 212.00 feet distant therefrom;

EXHIBIT "B"

thence Northerly along the arc of said curve through a central angle of 03 degrees 29 minutes 45 seconds a distance of 12.93 feet;

thence North 13 degrees 47 minutes 36 seconds West, 47.75 feet to a point marking the beginning of a tangent curve to the left, having a radius of 112.00 feet;

thence along the arc of said curve through a central angle of 5 degrees 11 minutes 56 seconds an arc distance of 10.16 feet;

thence North 71 degrees 00 minutes 28 seconds East, 53.41 feet to the TRUE POINT OF BEGINNING;

EXCEPT all groundwaters underlying the surface of said land as reserved in Docket 13572, Page 882, records of Maricopa County, Arizona.