

Declaration (Conditions, Covenants, & Restrictions)



**Rossmar
& Graham**
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Title Services Department
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DECLARATION OF HORIZONTAL PROPERTY REGIME
TOGETHER WITH
COVENANTS, CONDITIONS AND RESTRICTIONS,
AND GRANTS AND RESERVATIONS OF EASEMENTS
FOR

BILTMORE COURTS

This Declaration is made on the 1st day of March, 1979, by
PIONEER TRUST COMPANY OF ARIZONA, an Arizona corporation, as Trustee,
hereinafter referred to as "Declarant".

ARTICLE I

DECLARATION OF HORIZONTAL PROPERTY REGIME

Section 1. DESCRIPTION. Declarant is the Owner of real
property in Maricopa County, Arizona, described as follows:

See Legal Description attached hereto as Exhibit "A"
and incorporated herein by this reference.

Subject to easements, reservations, restrictions, conditions,
rights of way, canals, laterals, ditches, washes, and all
matters of record.

Section 2. PROJECT. On the real property referred to above,
a condominium project known as Biltmore Courts shall be developed in
accordance with the condominium plat (hereinafter referred to as the
"Plat") recorded in the Office of the County Recorder of Maricopa
County, Arizona, in Book 209 of Maps at Pages 6 thereof,
recorded on March 5, 1979.

Section 3. DECLARATION. Pursuant to Chapter 4.1, Article 1,
Sections 33-551 to 33-561 inclusive, Arizona Revised Statutes, 1956,
Declarant, being the owner thereof, does hereby submit said property
described above, including the improvements constructed and to be
constructed thereon, and all easements, rights and appurtenances
belonging thereto, all of which may hereinafter be referred to as
the "Property", which has been platted according to the recorded
Plat referred to above, to a Horizontal Property Regime

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pursuant to such Statute, in order to establish the nature of the use and enjoyment of the aforesaid property in accordance with this entire Declaration.

Section 4. DESCRIPTION OF PROJECT. The project shall generally be developed in one (1) stage. When completed, there will be seventy-two (72) individual Apartments as hereinafter defined. All of the seventy-two (72) individual Apartment Units are 2 bedroom, 2 bath Apartments. There will be six (6) multi-unit buildings in the Horizontal Property Regime, each building containing a different number of Apartment Units. Two-story Apartment Units will have a patio and a balcony and will be identified on the Plat by the letters "A" and "B"; a downstairs Apartment will have a patio and will be identified on the Plat by the letter "C"; and an upstairs Apartment Unit will have a balcony and will be identified on the Plat by the letter "D". There will be 19 A Units, 19 B Units, 17 C Units, and 17 D Units, except that the number of Units as finally constructed by Declarant may vary between A and B Units, and as so finally constructed, this Declaration shall be automatically modified to conform to the numbers of Units actually constructed. The Apartment Units will have the approximate square footage as follows:

Unit A	1385 square feet
Unit B	1402 square feet
Unit C	1192 square feet
Unit D	1184 square feet

Each Apartment Unit shall be separately identified numerically as 1 through 72, as shown on the Plat referred to in Article I, Section 2 above. Each Apartment Unit in the Horizontal Property Regime shall include an individual Apartment, a detached garage and storage area, and, where applicable, the exclusive use of a patio and/or balcony,

each bearing the same numerical identification, together with an undivided one/seventy-second (1/72nd) fractional interest in the Common Elements. Prior to the time that ninety percent (90%) of the Units have been sold to the public, Declarant reserves the right and thereafter the Association reserves the right to modify, reduce, enlarge or change the time for providing and/or the nature of, the General Common Elements, including the amenities and services provided or to be provided by Declarant or the Association, if it appears that the utilization or need for same, coupled with the financial feasibility thereof, reasonably requires such modification, in the exercise of the sole discretion of Declarant or the Association, as the case may be. Neither the amenities nor the services to be provided by the Association need to be available or furnished until the completion of the entire Project. Reasonable inconveniences may be experienced during the period of construction of the Project.

ARTICLE II

COVENANTS, CONDITIONS AND RESTRICTIONS

DEFINITIONS

Section 1. "Apartment" shall mean a separate freehold estate consisting of an airspace as described on the Plat, together with the corresponding airspace for a detached garage and storage area. The boundaries of each such Apartment are as follows:

(a) The lower vertical boundary is the surface of the finished floor thereof.

(b) The upper vertical boundary is a horizontal plane, the elevation of which coincides with the elevation of the surface of the highest finished ceiling thereof.

(c) The lateral boundaries are the interior surfaces of the perimeter walls, windows and doors thereof and vertical planes coincidental with the interior surfaces of the perimeter walls thereof, extended upwards to intersect the upper vertical boundary.

(d) Unless otherwise indicated, all airspace boundary lines intersect at right angles.

Each Apartment includes the surfaces so described, and the portions of the building and improvements lying within said boundaries. Each Apartment shall also include the ranges, dishwashers, garbage disposal units, water heaters, and other household appliances lying within said boundaries and/or appurtenant areas. The airspace for a garage and storage area is deemed included therein. The following are not part of an Apartment: Bearing walls, columns, vertical supports, floors, roofs, foundations, patio walls and fences, pipes, ducts, flues, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the Apartment. In interpreting deeds, plats, declarations, and plans, the existing physical boundaries of an Apartment or an Apartment reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the description expressed in the deed, plat, plan, or Declaration, regardless of settling or lateral movement of a building, and regardless of minor variances between the boundaries as shown on the plat or in the deed and Declaration and those of a building. Each of the seventy-two (72) Apartments shall be deemed to be a separate and distinct Apartment. Nothing contained herein, and notwithstanding anything shown on the Plat to the contrary or

otherwise, no structural parts of a Building and no part of an Apartment forming a part of any system serving one or more other Apartments or the Common Elements shall be deemed or construed to be part of an Apartment.

Section 2. "Apartment Unit" or "Unit" shall mean an Apartment and the appurtenances described in Article II, Section 1 together with an individual one/seventy-second (1/72nd) interest in and to the General Common Elements.

Section 3. "Architectural Committee" shall mean the committee created pursuant to Article X hereof.

Section 4. "Articles" shall mean the Articles of Incorporation of the Association which are, or shall be, filed in the office of the Corporation Commission of the State of Arizona, as said Articles may be amended from time to time.

Section 5. "Association" shall mean and refer to the Biltmore Courts Association, an Arizona non-profit corporation, its successors and assigns, formed as an entity through which the Owners may act, in accordance with Arizona Revised Statutes 33-561 (1962). The term Association shall be deemed to be identical with the term "Council of co-owners" as defined in Arizona Revised Statutes 33-551 (5).

Section 6. "Board" shall mean the Board of Directors of the Association.

Section 7. "Building" shall mean and refer to the structures designated as buildings on the Plat referred to in Section 2 of Article I above, in accordance with Arizona Revised Statute 33-551 (2) (1962).

Section 8. "Bylaws" shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 9. "General Common Elements" shall mean all the general common elements for the common use or

enjoyment by more than the Owner or Owners of a single Apartment, as described in Article I, Section 4(d) above and in Arizona Revised Statute 33-551 (6) (1962). The General Common Elements may sometimes herein be referred to as the "Common Elements".

Section 10. "Declarant" shall mean the person, persons or entities referred to on page 1 of this Declaration, including its successors and assigns.

Section 11. "Declaration" shall mean this entire document, as same may from time to time be amended, relating to all or part of the Project.

Section 12. "Improvement" shall mean all physical structures, including, but not limited to, the buildings, private drives, parking areas, fences and walls, and all landscaping, including, but not limited to, hedges, plantings, trees and shrubs of every type and kind.

Section 13. "Member" shall mean any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

Section 14. "Owner(s)" shall mean and refer to the record owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any Apartment. "Owner" shall include the purchaser of an Apartment under an executory contract for the sale of real property. The foregoing does not include persons or entities who hold an interest in any Apartment merely as security for the performance of an obligation. Except as stated otherwise herein, "Owner" shall not include a lessee or tenant of an Apartment. For the purposes of Article VI only, unless the context otherwise requires, "Owner" shall also include the family, invitees, licenses, and lessees of any Owner, together with any other person or

parties holding any possessory interest granted by such Owner in any Apartment. The term Owner shall be deemed to be identical with the term "Co-owner" as defined in Arizona Revised Statutes 33-551 (3).

Section 15. "Plat" shall mean the plat of survey of the Property and of all Apartments submitted to this Horizontal Property Regime, which said Plat is recorded as shown above in Article I, Section 2 above, (and any amendments thereto which are recorded), and is incorporated herein by this reference.

Section 16. "Project" shall mean all property located in the County of Maricopa, State of Arizona, which becomes subject to this Declaration, together with such other property as may from time to time be annexed thereto.

Section 17. "Property" shall mean and refer to the real property committed to the Horizontal Property Regime, the Building, all other Improvements located thereon, and all easements, rights, and appurtenances belonging thereto.

Section 18. "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

Section 19. "Unit" shall mean Apartment Unit as defined in Section 2 above.

Section 20. "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an

elevation no greater than the elevation of the base of the object being viewed.

ARTICLE III

COMPLIANCE PROVISIONS

Section 1. The following provisions are made in compliance with Section 33-553, Arizona Revised Statutes:

(a) DESCRIPTION OF THE LAND. The land shall be as described in Article I, Section 1, of this Declaration.

(b) DESCRIPTION OF THE CUBIC CONTENT SPACE OF EACH BUILDING. The cubic content space of each Building with reference to its location on the land is described on the Plat. The boundaries of each Building shall be the exterior of the outside walls of said Building, except that where there are patios or balconies extending beyond the exterior of the outside walls, the boundaries of each Building shall be the plane of the outer edge of the exterior walls surrounding said patios or balconies or the plane of the boundary lines shown on the Plat for said patios or balconies, or the plane of the boundary lines shown on the Plat for said patios or balconies, which extend outward farthest from the exterior walls of said Building, all as shown on the Plat. The upper and lower boundaries of the Building shall be as shown on the Plat.

(c) DESCRIPTION OF THE CUBIC CONTENT SPACE OF EACH APARTMENT. The cubic content space of each Apartment located within a Building and of each garage and storage area and the patio and/or balcony subject to individual and exclusive control, is as more fully set forth and described on the Plat.

(d) DESCRIPTION OF GENERAL COMMON ELEMENTS. The General Common Elements shall include all of said Property

referred to in Subsections (a) and (b) above, including, but not limited to, the land upon which the Apartment Units are located, the buildings, all exterior and bearing walls, columns, floors, ceilings and roofs, slabs, halls, lobbies, stairways, entrance and exit ways, all recreational facilities, swimming pool, pumps, landscaping, pavements, private drives, all waste, water and gas pipes, ducts, conduits, wires, drainage lines, or other utility and installation meters and lines, all central or common heating and air conditioning units and facilities, compartments or installations of central services for public utilities, reservoirs, water tanks and pumps servicing other than one Apartment, premises and space for lodging or use of service personnel engaged in performing services other than service personnel engaged in performing services other than services within a single Apartment, the foundations of the Apartments, the foundations of the Buildings, and all other devices and premises designated for common use or enjoyment by more than the Owner or Owners of a single Apartment, all as is more fully set forth and described herein and in the Plat; except for the description of an Apartment as defined in Subsection (c) above.

(e) DESCRIPTION OF THE CUBIC CONTENT SPACE OF LIMITED COMMON ELEMENTS. There are no Limited Common Elements included within this Project.

(f) FRACTIONAL INTEREST. Each Apartment Unit shall bear a one/seventy-second (1/72nd) fractional interest to the entire Horizontal Property Regime.

(g) EXCLUSIVE USE. Each Apartment Unit shall have the exclusive use of a) an area within the Common Elements for a balcony and/or patio (depending on the letter designation of the Apartment as referred to above in Article

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1, Section 4) as generally shown on the Plat, as same is originally constructed by Declarant (the latter to control in the event of any difference between what is shown on the plat and that which is originally constructed by Declarant), b) the garage specifically designated in the Plat as being appurtenant to that Apartment Unit, and c) the parking space specifically designated in the Plat as being appurtenant to that Apartment Unit, such rights of exclusive use to be deemed as and reserved for an appurtenance to the Unit, to which it adjoins is attached or to which it relates as shown on the Plat.

ARTICLE IV

PROPERTY RIGHTS

Section 1. OWNERS' EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Apartment, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Elements;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Unit remains unpaid; and for a period not to exceed 60 days for any infraction of this Declaration;

(c) the right of the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members agreeing to such dedication or transfer has been recorded.

(d) the right of Declarant and its agents and representatives, in addition to the rights set forth elsewhere in this Declaration, to non-exclusive use, without charge, of the Common Elements for maintenance of sales facilities, and display and exhibit purposes.

Section 2. DELEGATION OF USE. Any Owner may delegate, in accordance with this Declaration, his right of enjoyment to the Common Elements and facilities to the members of his family, his tenants, his guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times.

Section 3. LIMITATIONS.

(a) An 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 an Owner's 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 Owner's Unit, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Elements.

(b) The undivided interest in the Common Elements, and the fee title to the respective Apartment Units shall not be separated or separately conveyed, and each such undivided interest shall be deemed to be conveyed or encumbered with its respective Apartment Unit, even though the description in the instrument of conveyance or encumbrance may refer only to the Apartment Unit. The Common Elements shall remain undivided, and no owner shall bring any action to partition or subdivide any Common Elements or appurtenances, it being agreed that this

restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Apartment Unit owned by two or more persons and division of the sale proceeds is not prohibited hereby, but partition of title to or the estate in a single Apartment Unit is prohibited.

(c) Each Owner, tenant and occupant of a Unit, and the invitees, tenants, agents and employees of such Owner, may use the Common Elements in common with the Owners, invitees, tenants, agents and employees of the other Units in accordance with the purposes for which such Common Elements are intended without hindering or encroaching upon the lawful right of such others.

(d) No Owner will be exempted from liability of assessments with respect his Unit by waiver of the enjoyment of the right to use the Common Elements or by abandonment of his Unit or otherwise.

ARTICLE V

GENERAL DECLARATION

Section 1. GENERAL DECLARATION. Declarant hereby declares that all of the real property within the Project is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration as amended or modified from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of said real property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of said real property and every part thereof. All of this

Declaration shall run with all of said real property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, and their successors in interest.

ARTICLE VI

PERMITTED USES AND RESTRICTIONS

Section 1. PERMITTED USES AND RESTRICTIONS -- ALL PROPERTY. The permitted uses, easements, and restrictions for all Property within the Project covered by this Declaration shall be as follows:

(A) SINGLE FAMILY RESIDENTIAL USE. An Apartment shall be used, improved and devoted exclusively to Single Family residential use. No gainful occupation, profession, trade or other nonresidential use shall be conducted on any such Property. Nothing herein shall be deemed to prevent the lease of an Apartment to a Single Family from time to time by the Owner thereof, subject to all of the provisions of this Declaration. Units owned by Declarant may be used as model homes, and for sales and construction offices for the purpose of enabling Declarant to sell Units within the Property, until such time as all of the Units owned by Declarant have been sold to public purchasers.

B. -ANTENNAS. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any Property whether attached to a building or structure or otherwise, unless approved by the Architectural Committee.

C. UTILITY SERVICE. 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 any Property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Committee. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

D. IMPROVEMENTS AND ALTERATIONS. No improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of any Property from its natural or improved state existing on the date such Property was first conveyed or transferred by Declarant to a Public Purchaser shall be made or done without the prior approval of the Architectural Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the Architectural Committee or any committee established by the Architectural Committee for the purpose. Pursuant to its rulemaking power, the Architectural Committee shall establish a procedure for the preparation, submission and determination of applications for any such alteration or improvement. The Architectural Committee shall have the right to refuse to approve any plans or specifications which are not suitable or desirable, in its opinion, for aesthetic or other reasons, and in so passing upon such plans and specifications, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed improvement, and of the materials of which it is to be built, the site

upon which it is to be located, the harmony thereof with the surroundings and the effect thereof on the outlook from the adjacent or neighboring Property. All subsequent additions to or changes or alterations in any building, fence, wall or other improvement, including exterior color scheme and building materials, shall be subject to the prior approval of the Architectural Committee. No changes or deviations in or from such plans and specifications once approved shall be made without the prior written approval of the Architectural Committee. All decisions of the Architectural Committee shall be final and no Owner or other party shall have recourse against the Architectural Committee or any of its members, for or with respect to any decision made in good faith.

(E) REPAIR AND MAINTENANCE.

(1) BY OWNER. Each Owner of an Apartment shall maintain, repair, replace, and restore, at his own expense, all portions of the Apartment, as hereinabove defined, subject to control and approval of the Association as provided herein. No Owner shall remove, alter, injure or interfere in any way with any shrubs, trees, grass or plantings placed upon any Property by Declarant or the Association without the written consent of the Association having first been obtained.

(2) BY THE ASSOCIATION. The Association shall have full power to control, and it shall be its duty to maintain, repair and make necessary improvements to and pay for out of the maintenance fund to be provided, all Common Elements and the improvements thereon, including, but not limited to, common facilities and improvements, all common landscaping and drainage facilities; all corrective architectural, landscaping and repair work on common

elements within residences; all metered utilities for Common Elements; and all roadways, streets, parking areas, walks and other means of ingress and egress within the project. This shall include the exterior portions of the Apartments, and the buildings (except for the Apartments); the land upon which the buildings are located; the air space above the buildings, all bearing walls, columns, floors, roofs, slabs, foundations, storage spaces, balconys, lobbies; all waste, water, sewer, and gas pipes, ducts, shoots, conduits, wires, and all other utility installations of the buildings, wherever located, except the outlets thereof when located within the Apartments. The Association shall further be empowered with the right and duty to periodically inspect all Common Elements in order that minimum standards of repair, design, color and landscaping shall be maintained for beauty, harmony and conservation within the entire Project.

(3) GENERAL MAINTENANCE. In the event that the Association determines that an Improvement or the Common Elements are in need of repair, restoration or painting, or that the landscaping is in need of installation, repair, or restoration, the Association shall undertake to remedy such condition and the cost thereof shall be charged to the Owners and shall be subject to levy, enforcement and collection by the Association in accordance with the assessment lien procedure provided for in this Declaration. The Association shall have a limited right of entry in and upon all Common Elements as defined above and the exterior of all Apartments for the purpose of taking whatever corrective action may be deemed necessary or proper by the Association. Nothing in this Article shall in any manner limit the right of the Owner to exclusive control

over the interior of his Apartment. Provided, however, that an Owner shall grant the right of entry therein to the Association or any other person or other Owner or Owners, or their authorized representatives, in case of any emergency originating in or threatening his Apartment, whether the Owner is present or not, when so required, and to the Association, and its authorized representatives for the purpose of performing the maintenance authorized by this Declaration or for any other purpose reasonably related to the performance by the Association of its responsibilities under this Declaration, including, without limitation, installation, alterations or repair to the mechanical or electrical services, including water, sewer, and other utility services and installation and maintenance of any common television antennas, provided that reasonable requests for entry are made and that such entry is at a time reasonably convenient to the Owner whose Apartment is to be entered. In case of an emergency, such right of entry shall be immediate without the necessity for a request having to be made.

(4) REPAIR NECESSITATED BY OWNER. In the event that the Association determines that an Improvement or the Common Elements are in need of repair, restoration or painting, or that the landscaping is in need of installation, repair, or restoration which need has been caused by an Owner, or that there is a violation of any provision of this Declaration by an Owner, then the Association shall give written notice to the Owner of the condition or violation complained of. Unless the Board has approved in writing corrective plans proposed by the Owner to remedy the condition complained of within such reasonable period of time as may be determined by the Board after said written

notice is first given, and such corrective work so approved is completed thereafter within the time allotted by the Board, the Association shall undertake to remedy such condition or violation complained of and the cost thereof shall be charged to the Owner and his Apartment whose residence is the subject matter of the corrective work, and such cost shall be deemed to be an Assessment to such Owner, and his Apartment, and subject to levy, enforcement and collection by the Association in accordance with the assessment lien procedure provided for in this Declaration. The Association shall have the same right of entry in and upon all Common Elements and an Apartment as defined above. The Board shall have the sole right to determine whether any such costs expended by the Association related to general maintenance or was repair necessitated by an Owner, and the determination of same shall be binding and final as to an Owner.

F. TRASH CONTAINERS AND COLLECTION. No garbage or trash shall be placed or kept on any Property except in covered containers of a type, size and style which are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible from Neighboring Property except to make the same available for collection and, then, only the shortest time reasonably necessary to effect such collection. The Board shall have the right, in its sole discretion, to require all Owners to subscribe to a trash service. All rubbish, trash, or garbage shall be removed from the Property and shall not be allowed to accumulate therein. No incinerators shall be kept or maintained on the Property.

G. OVERHANGS. No tree, shrub, or planting of any kind on any Property shall be allowed to overhang or

otherwise to encroach upon any Common Area from ground level to a height of twelve (12) feet, without the prior approval of the Architectural Committee.

H. RIGHT OF WAY. During reasonable hours, Declarant, any member of the Architectural Committee, any member of the Board, or any authorized representative of any of them, shall have the right to enter upon and inspect any Property and the Improvements thereon, except any Apartment, for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

I. MACHINERY AND EQUIPMENT. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Property except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of buildings, improvements or structures which are within the permitted uses of such property, and except that which Declarant or the Association may require for the operation and maintenance of the Common Elements.

J. RESTRICTION ON FURTHER SUBDIVISION. No Apartment within the Property shall be further subdivided or separated into smaller Apartments by any Owner, and no portion less than all of any such Apartment nor any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Board. No portion of an Apartment but for the entire Apartment, together with the Improvements thereon, may be rented, and then only to a single family. This restriction shall not prevent the conveyance or encumbrance of adjoining

or contiguous Apartments or parts of Apartments in such a manner as to create an Apartment in a common ownership. Thereafter such part or parts of adjoining or contiguous Apartments in such common ownership shall, for the purposes of these restrictions, be considered as one Apartment, but subject to the original number of assessments, voting rights, etc. as existed prior to such combination. This restriction shall not prevent the granting by an Owner thereof of an easement over part or parts of an Apartment for use by another Owner.

X. SIGNS. No signs whatsoever which are Visible From Neighboring Property shall be erected or maintained on any Property except such signs the nature, number and location of which have been approved in advance by the Architectural Committee.

L. UTILITY EASEMENTS. There is hereby created a blanket easement upon, across, over and under the Property for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on said Property and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of said Property. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on said Property except as initially developed and approved by the Declarant or thereafter approved by the Board. This easement shall in no way affect any other recorded easements on said Property. This

easement shall be limited to improvements as originally constructed.

X M. ANIMALS. No animals, birds, fowl, poultry, or livestock, other than a reasonable number of generally recognized house or yard pets, shall be maintained on any Property covered by this Declaration and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal, bird, fowl, poultry or livestock shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal, bird, fowl or livestock shall be maintained so as to be Visible from Neighboring Property. Upon the written request of any Owner, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal, bird, fowl, poultry or livestock is a generally recognized house or yard pet, or a nuisance, or whether the number of animals or birds on any such property is reasonable. Any decision rendered by the Board shall be enforceable as other restrictions contained herein.

N. ENCROACHMENTS. Each Apartment shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the same is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of the adjacent Apartment due to construction shall be permitted and that a valid easement for said encroachments and the maintenance thereof shall exist. Anything herein to the contrary

notwithstanding, any such encroachment shall not exceed such size as is approved by the Board.

O. TEMPORARY OCCUPANCY. No trailer, basement of any incomplete Improvement, building, tent, shack, garage or barn, and no temporary improvement of any kind shall be used at any time for a residence on any Property either temporary or permanent. Temporary buildings or structures used during the construction of Units on any such Property shall be removed immediately after the completion of construction.

P. TRAILERS AND MOTOR VEHICLES. No mobile homes, motorhome, boat, recreational vehicle, trailer of any kind, truck, camper, permanent tent, or similar structure shall be kept, placed, maintained, constructed, reconstructed or repaired, nor shall any motor vehicle be constructed, reconstructed or repaired, upon any Property or street (public or private) within the Property, in such a manner as will be Visible From Neighboring Property; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Architectural Committee. Garages shall be used for parking vehicles and storage purposes only, and shall not be converted for living or recreational activities without the written consent of the Architectural Committee. Except as provided above, only automobiles in operating condition shall be parked in uncovered parking areas. Automobiles and other motor vehicles owned by Lot Owners shall not be parked in or on the streets or private drives constituting part of the Common Elements.

Q. NUISANCES. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent

to any Property, and no odors shall be permitted to arise therefrom, so as to render any such Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such Property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such Property. The Board in its sole discretion shall have the right to determine the existence of any such nuisance. No motorcycles or motor driven vehicles (except lawn maintenance equipment) shall be operated on any walkways or sidewalks within the Property.

R. CLOTHES DRYING FACILITIES. Outside clothes-lines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Property unless they are erected, placed and maintained exclusively within a fenced service yard or otherwise concealed and shall not be Visible From Neighboring Property.

S. MINERAL EXPLORATION. No Property 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.

T. DISEASES AND INSECTS. No Owner shall permit any thing or condition to exist upon any Property which shall induce, breed or harbor infectious plant diseases or noxious insects.

U. COMMON WALLS AND GARAGE DOORS. The rights and duties of Owners with respect to Common Walls and Garage Doors shall be as follows:

(1) The Owners of contiguous Apartments who have a Common Wall, and the Owners whose garages share the same garage door, shall both equally have the right to use such wall or door provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner.

(2) In the event that any Common Wall or garage door is damaged or destroyed through the act of an Owner or any of his agents or guests or members of his family (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Common Wall or garage door without cost to the other Owner or Owners.

(3) In the event any such Common Wall or garage door is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of another Owner, his agents, guests or family, it shall be the obligation of the Association to rebuild and repair such wall or door.

(4) Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any Common Wall or garage door without the prior consent of the Board.

(5) In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Common Wall or garage door, or with respect to the bearing of the cost thereof, the Owners shall submit the dispute to the Board, the decision of which shall be final and binding on all Owners.

V. INSURANCE. The Association, acting thru the Board, or its duly authorized agent, shall have the authority to and may obtain insurance for all the Property, (except individual Apartments and personal property contained therein) against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from all reasonable hazards, and may also obtain a broad form public liability policy covering all Common Elements, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. If obtained by the Association, premiums for all such insurance, except on the individual Apartments, shall be common expenses of the Association. All such insurance coverage obtained by the Board shall be written in the name of the Association as trustee for each of the Owners. Insurance on individual Apartments obtained by Owners may be written in the name of the individual Owners. In addition to the aforesaid insurance carried by the Association, any Owner may, if he wishes, at his own expense, carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, Owner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any Property covered by insurance written in the name of the Association, the Board shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution,

the accounts of which bank or institution are insured by a federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by two signatures of members of the Board, or by an agent duly authorized by the Board. The Board shall contract with any licensed contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board may levy a special assessment against all Owners to make up any deficiency for repair or rebuilding of the Common Elements not a part of an Apartment. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the Association.

W. DECLARANT'S EXEMPTION. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of improvements or signs necessary or convenient to the development or sale of the Property.

X. NO WARRANTY OF ENFORCEABILITY. While Declarant has no reason to believe that any of the restrictive covenants or other provisions contained in this Article VI or elsewhere 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 such restrictive covenant. Any Owner acquiring a Unit in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof

and, by acquiring the Unit agrees to hold Declarant harmless therefrom.

Section 2. PERMITTED USES AND RESTRICTIONS - COMMON ELEMENTS. The permitted uses and restrictions for Common Elements shall be as follows:

A. MAINTENANCE BY ASSOCIATION. The Association may, at any time, as to any Common Elements, conveyed, leased, or transferred to it, or otherwise placed under its jurisdiction, in the discretion of the Board, without any approval of the Owners being required:

- (1) Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area) in accordance with (a) the last plans thereof approved by the Board, (b) the original plans for the Improvement, or (c) if neither of the foregoing is applicable and if such Improvement was previously in existence, then in accordance with the original design, finish or standard of construction of such Improvement as same existed;
- (2) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a road, street, walk, driveway and parking area;
- (3) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (4) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;
- (5) Do all such other and further acts which the Board deems necessary to preserve and protect the property and the beauty thereof, in accordance with the general purposes specified in this Declaration;

- (6) The Board shall be the sole judges as to the appropriate maintenance of all grounds within the Common Elements.

B. DAMAGE OR DESTRUCTION OF COMMON ELEMENTS BY OWNERS. No Owner shall in any way damage or destroy any Common Elements, or interfere with the activities of the Association in connection therewith. Any amount incurred by the Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments.

ARTICLE VII

THE ASSOCIATION

Section 1. ORGANIZATION.

A. THE ASSOCIATION. The Association is a non-profit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

B. BOARD OF DIRECTORS AND OFFICERS. The affairs of the Association shall be conducted by a Board of Directors and such Officers and Committees as the Directors may elect or appoint, in accordance with the Articles and the Bylaws, as same may be amended from time to time.

Section 2. RIGHTS, POWERS AND DUTIES OF THE ASSOCIATION. The Association shall have such rights, powers and duties as set forth in the Articles and By-Laws, as the same may be amended from time to time, together with such

rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes as set forth in this Declaration, as the same may be amended from time to time. Without any limitation of the foregoing, the Association shall have the right and power, but not the obligation, to provide any or all of the following facilities and services: tennis courts, handball courts, swimming pools, clubhouse, jacuzzi, sauna, exercise room, exercise facilities, barbecues, parking facilities, guard service, green-belt landscaping and maintenance, repair of roofs, painting of Apartments, maid service, rental service, social and entertainment services (tourist bureau), front and/or rear yard landscaping and maintenance, laundry and dry cleaning, group shopping trips and tours, car rental and leasing, travel services, including information services and group tours, and transportation for residents of the project. The Association may contract with a management company or with other private parties or entities for the providing of services on behalf of the Association, and may acquire, construct or designate such facilities, including parking spaces, as may be necessary in order to facilitate the rendering of any such services.

Section 3. ASSOCIATION RULES. By a majority vote of the Board, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations to be known as the "Association Rules". The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner; provided, however, that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the

Association Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and may be recorded. Upon such adoption, said Rules shall have the same force and effect as if they were set forth in and were a part of the Declaration.

Section 4. PERSONAL LIABILITY. No member of the Board or any Committee of the Association, or any officer or employee of the Association, or the Manager, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the Manager or any other representative or employees of the Association, or any Architectural Committee, or any other Committee, or any officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

Section 5. CUSTODIAN UNIT.

A. The Association shall have the power and authority, with the vote or written consent of a majority of each class of Members, to purchase a Unit (the "Custodian Unit") to be occupied by the custodian (manager) of the Project. In such case, during the period the Custodian Unit is owned by the Association:

B. No right to vote shall be exercised on behalf of the Custodian Unit.

C. No assessment shall be assessed or levied on the Custodian Unit.

D. Each other Unit Owner shall be charged, in addition to his usual assessment, his share of the assessment that would have been charged to the Custodian Unit, but

for the provisions of this Section 5.

ARTICLE VIII

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of an Apartment Unit which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Apartment Unit which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Apartment Unit owned. When more than one person holds an interest in any Apartment Unit, all such persons shall be Members. The vote for such Apartment Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Apartment Unit.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to seven (7) votes for each Apartment Unit owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B membership.

Section 3. The vote for each such Apartment Unit must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners casts a vote representing a certain Apartment Unit, it will thereafter be conclusively

presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Apartment Unit. In the event more than one ballot is cast for a particular Apartment Unit, none of said votes shall be counted as said votes shall be deemed void."

Section 4. In any election of the members of the Board, every Owner entitled to vote at such an election shall have the right to cumulate his votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of Apartments Units owned by the Owner multiplied by the number of votes the Owner is entitled to cast per Apartment Unit, multiplied by directors to be elected. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

Section 5. Each member shall have such other rights, duties, and obligations as set forth in the Articles and Bylaws, as same may be amended from time to time.

Section 6. The Association membership of each Owner of an Apartment Unit within the Project shall be appurtenant to said Apartment Unit. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership to such Apartment Unit, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record, exercise of a power of sale under a Deed of Trust, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to said Apartment Unit

shall operate to transfer said membership to the new Owner thereof.

ARTICLE IX

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Each Owner of any Apartment Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a lien on the Apartment Unit against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Apartment Unit at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. No Apartment Unit shall be sold, transferred or conveyed by any Owner without all assessments having been paid in full, whether or not a lien has been filed or resolved.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners in the Property, for the improvement and maintenance of the Common Elements, and for all purposes set forth in this Declaration and the Articles, including but not limited to, insurance premiums, expenses for maintenance

repairs and replacements of Common Elements, reserves for contingencies, and charges for water and other utilities for the Common Elements.

Section 3. MAXIMUM ANNUAL ASSESSMENT. Until January 1¹⁹⁸⁶ of the year immediately following the conveyance by Declarant of the first apartment unit to an Owner, the maximum annual assessment shall be One Hundred Dollars and 00/100 DOLLARS (\$ 100.00) for each apartment unit owned by an Owner other than Declarant; fifty percent (50%) thereof for each completely constructed Apartment Unit owned by Declarant; and five percent (5%) thereof for each Unit owned by Declarant which an Apartment has not been completely constructed. An Apartment shall be deemed completely constructed when no further major construction work is necessary (except for minor fix up items and interior decorating) but in no event later than one hundred eighty (180) days after the start of construction thereon.

(a) From and after January 1 of the year immediately following the conveyance of the first Apartment to an Owner, the maximum annual assessment may be increased each year up to twenty-five percent (25%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Apartment to an Owner, the maximum annual assessment may be increased above twenty-five percent (25%) by a vote of Owners representing two-thirds (2/3) of the Apartments, whether voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board may fix the annual assessment at an amount not in excess of the maximum.

Section 4. SPECIAL ASSESSMENTS. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable for not more than five (5) years 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 such assessment shall have the assent of Owners representing two-thirds (2/3) of the Apartment Units, whether voting in person or by proxy at a meeting duly called for this purpose.

Section 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. UNIFORM RATE OF ASSESSMENT. Except as provided in Section 3 above, both annual and special assessments must be fixed at a uniform rate for all Apartment Units and may be collected on a monthly, quarterly, or annual basis.

Section 7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES. The annual assessments provided for herein shall commence as to all Apartment Units on the first day of the month following the conveyance of the first Apartment Unit to an Owner other than the Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Apartment at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Apartment Unit have been paid.

Section 8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Each Owner of any Apartment shall be deemed to covenant and agree to pay to the Association the assessments provided for herein, and agrees to the enforcement of the assessments in the manner herein specified. In the event the Association employs an attorney for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, each Owner and Member agrees to pay reasonable attorney's fees and costs thereby incurred in addition to other amounts due or any other relief or remedy obtained against said Owner or Member. In the event of a default in payment of any such assessment when due, in which case the assessment shall be deemed delinquent, and in

addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

(a) ENFORCEMENT BY SUIT. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner or Member to enforce each such assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the maximum rate per annum permitted by law for contracting parties from the date of delinquency until paid, court costs, a late charge equal to ten percent (^{17 1/2}~~10~~) of each delinquent assessment, and reasonable attorneys' fees in such amount as the Court may adjudge against the delinquent Owner or Member.

(b) ENFORCEMENT BY LIEN. There is hereby created a right of claim of lien, with power of sale, on each and every Apartment Unit within the Project, to secure payment to the Association of any and all assessments levied against any and all Owners of such Apartment Units under this Declaration, together with interest thereon at the maximum rate per annum permitted by law for contracting parties from the date of delinquency until paid, a late charge as referred to above, a lien fee for placing and removing liens (in such reasonable amount as may be charged by the Association), and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time within such assessment, the Association, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting owner, on behalf of the Association. Said demand

shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or, even without such a written demand being made, the Association may elect to file such a claim of lien on behalf of the Association against the Apartment Unit of the defaulting Owner. Such a claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

1. The name of the delinquent Owner;
2. The legal description and street address of the Apartment Unit against which claim of Lien is made;
3. The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and reasonable attorneys' fees (with any proper offset allowed);
4. That the claim of lien is made by the Association pursuant to this Declaration; and
5. That a lien is claimed against said Apartment Unit in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such a claim of lien, and mailing a copy thereof to said Owner, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the Apartment Unit and the Common Elements and rights appurtenant to the Apartment Unit, against which such Assessment was levied, as created by this Declaration. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except only tax liens for real property taxes on any Apartment Unit, assessments on any Apartment in favor of any

municipal or other governmental assessing unit, and the liens which are specifically described in Section 9 hereinafter. Any such lien may be foreclosed by appropriate action in Court or in the manner provided by law for the foreclosure of a realty mortgage or trust deed as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Apartment Owners. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any Apartment Unit. In the event such foreclosure is by action in Court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of an Apartment Unit in the Project hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

Section 9. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Apartment Unit shall not affect the assessment lien. However, the sale or transfer of any Apartment Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Apartment Unit from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. EXEMPTION OF OWNER. No Owner of an Apartment may exempt himself from liability for his fair and equitable contribution towards the common expenses by waiver

and non-use of any of the Common Elements and facilities or by the abandonment of his Apartment.

Section 11. UNALLOCATED TAX ASSESSMENTS. In the event that any taxes are assessed against the Common Elements, or the personal property of the Association, rather than against the Apartment Units, said taxes shall be included in the assessments made under the provisions of this Article, and, if necessary, a special assessment may be levied against the Apartment Units in an amount equal to said taxes, to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

ARTICLE X

ARCHITECTURAL CONTROL

Section 1. ORGANIZATION, POWER OF APPOINTMENT AND REMOVAL OF MEMBERS. There shall be an Architectural Committee, organized as follows:

A. Committee Composition. The Architectural Committee shall consist of three regular members and two alternate members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be, but may be, a member of the Board or an officer of the Association.

B. Alternate Members. In the event of the absence or disability of one or two regular members of said Committee, the remaining regular member or members, even though less than a quorum, may designate either or both of the alternate members to act as substitutes for the absent or disabled regular member or members for the duration of such absence or disability.

C. Initial Members. The following persons are hereby designated as the initial members of the Architectural Committee:

Office No. 1	-	S. John Robinson	-	Regular Member
Office No. 2	-	Frank Kleinman	-	Regular Member
Office No. 3	-	Jeffrey Cornoyer	-	Regular Member
Office No. 4	-	Robert Hedrick	-	Alternate Member
Office No. 5	-	Douglas Watson	-	Alternate Member

The Board may act as the Architectural Committee if so determined by the majority vote of the members of the Association at a duly called meeting for this purpose.

D. Terms of Office. Unless the initial members of the Architectural Committee have resigned or been removed, their terms of office shall be for a period of one year, or until the appointment of his successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have been expired may be reappointed.

E. Appointment and Removal. The right to appoint and remove all regular and-alternate members of the Architectural Committee at any time, shall be and is hereby vested solely in the Board, provided, however, that no regular or alternate member may be removed from the Architectural Committee by the Board, except by the vote or written consent of fifty-one percent of all of the members of the Board. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by the recordation of a declaration identifying each new regular or alternate member appointed to the Committee and each regular or alternate member replaced or removed therefrom.

F. Resignations. Any regular or alternate member of the Architectural Committee may at any time resign from the Committee by giving written notice thereof to Declarant or to the Board, whichever then has the right to appoint Committee members.

G. Vacancies. Vacancies on the Architectural Committee however caused, shall be filled by the Board. A vacancy or vacancies on the Architectural Committee shall be deemed to exist in case of the death, resignation or removal of any regular or alternate member.

Section 2. DUTIES. It shall be the duty of the Architectural Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Committee Rules, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by this Declaration.

Section 3. MEETINGS AND COMPENSATION. The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. Subject to the provisions of Paragraph B of Section 1 above, the vote or written consent of any two regular members, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of this Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meeting or otherwise. Members of the Architectural Committee shall not be entitled to compensation for their services.

Section 4. ARCHITECTURAL COMMITTEE RULES. The Architectural Committee may, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to

be known as "Architectural Committee Rules". Said Rules shall interpret and implement this Declaration by setting forth the standards and procedures for Architectural Committee review and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use within the Property.

Section 5. WAIVER. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing specification or matter subsequently submitted for approval.

Section 6. LIABILITY. Neither the Architectural Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development of any Property, or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural

Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Committee.

Section 7. TIME FOR APPROVAL. In the event the Architectural Committee fails to approve or disapprove any application for approval within 30 days after the application, together with supporting plans and specifications, have been submitted to it, approval will not be required and this Article will be deemed to have been complied with.

ARTICLE XI

CONDEMNATION

Section 1. CONSEQUENCES OF CONDEMNATION; NOTICES. If at any time all or any part of the Property shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Article shall apply. Upon any such act, each Owner who has requested special notice, and each holder of a lien or encumbrance on the Property or any part thereof shall be provided with timely written notice of any proceeding or proposed acquisition or sale.

Section 2. PROCEEDS. All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "condemnation award," shall be payable to the Board in trust for the Owners and all holders of liens and encumbrances on the Property or any part thereof, as their interests may appear.

Section 3. COMPLETE TAKING. In the event that the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Horizontal Property Regime created pursuant hereto shall

terminate. The condemnation award shall be apportioned among the Owners in proportion to their respective undivided interest in the Common Elements; provided, that if a standard different from the value of the Property as a whole is employed to measure the condemnation award in the negotiation, judicial decree, or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable. On the basis of the foregoing principle, the Board shall as soon as practicable determine the share of the condemnation award to which each Owner is entitled. After first paying out of the respective share of each Owner, to the extent sufficient for the purpose, all encumbrances and liens on the interest of such Owner, the balance remaining in each share shall then be distributed to each Owner respectively.

Section 4. PARTIAL TAKING. In the event that less than the entire Property is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the Horizontal Property Regime created hereunder shall not terminate. Each Owner shall be entitled to a share of the condemnation award to be determined in the following manner:

A. As soon as practicable the Board shall, reasonably and in good faith, allocate the condemnation award between compensation, severance damages, or other proceeds.

B. The Board shall apportion the amounts so allocated to a taking of or injury to the Common Elements which in turn shall be apportioned among the Owners in proportion to their respective undivided interests in the common areas.

C. The total amount allocated to severance damages shall be apportioned to those Apartments which were not taken or condemned.

D. The respective amounts allocated to the taking of or injury to a particular Apartment Unit and/or improvements an Owner had made within his own Apartment shall be apportioned to the particular Apartment involved.

E. The amount allocated to consequential damages and any other taking or injury shall be apportioned as the Board determines to be equitable in the circumstances.

F. If an allocation of the condemnation award is already established in negotiation, judicial decree or otherwise, then in allocating the condemnation award the Board shall employ such allocation to the extent it is relevant and applicable.

G. Distribution of apportioned proceeds shall be made to the respective Owners and their respective Mortgagees in the manner provided in Section 3 of this Article XI.

ARTICLE XII

GENERAL PROVISIONS

Section 1. ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the

Property, 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. This Declaration may be amended at any time by an instrument signed by Owners representing more than fifty percent (50%) of the Apartment Units. Any amendment must be recorded.

Section 4. EASEMENTS. Declarant expressly reserves for the benefit of the Property covered by this Declaration, reciprocal easements of access, ingress and egress. Such easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants, and invitees for pedestrian walkways, vehicular access and such other purposes reasonably necessary to use and enjoyment of an Apartment in the project.

Section 5. VIOLATIONS AND NUISANCE. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, the Association or any Owner or Owners of Apartment Units within the Project. However, any other provision to the contrary notwithstanding, only Declarant, the Association, the Board, or the duly authorized agents of any of them, may enforce by self-help any of the provisions of this Declaration.

Section 6. VIOLATION OF LAW. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of any Property within the Project is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

Section 7. REMEDIES CUMULATIVE. Each remedy provided herein is cumulative and not exclusive.

Section 8. DELIVERY OF NOTICES AND DOCUMENTS.

Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered twenty-four hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Association, at P. O. Box 15692, Phoenix, Arizona 85008; if to the Architectural Committee, at P. O. Box 15692, Phoenix, Arizona 85018; if to an Owner, to the address of his Apartment within the Project owned, in whole or in part, by him or to any other address last furnished by an Owner to the Association; and if to Declarant, at P. O. Box 15692, Phoenix, Arizona 85018; provided, however, that any such address may be changed at any time by the party concerned by recording a written notice of change of address and delivering a copy thereof to the Association. Each Owner of an Apartment shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

Section 9. BINDING EFFECT. By acceptance of a deed or by acquiring any ownership interest in any of the Property included within this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby

acknowledges that this Declaration sets forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Owners. Declarant, its successors, assigns and grantees, covenant and agrees that the Apartments and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Apartment Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Apartment Unit.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 5th day of March, 1979.

PIONEER TRUST COMPANY OF ARIZONA,
an Arizona corporation, as Trustee

BY: Charles A. Johnson
Trust Officer

STATE OF ARIZONA }
 } ss.
County of Maricopa }

On this the 5th day of March, 1979, before me, the undersigned officer, personally appeared Charles A. Johnson who acknowledged himself to be Trust Officer of PIONEER TRUST COMPANY OF ARIZONA, an Arizona corporation, as Trustee, and that he, being

authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself.

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

Lusan Pine
Notary Public

(SEAL)

My Commission Expires:
My Commission Expires May 13, 1980

RATIFIED BY:

Pioneer ~~Trust~~ Trust Company
of Arizona, an Arizona corporation,
as Trustee

By Glenn A. Bagwell
Title Vice President
Date: 3-2-79

Arizona Biltmore Estates

By Calvin G. Johnston
Title President
Date: 3-2-79

Western Savings

By _____
Title _____
Date: _____

STATE OF ARIZONA)
County of Maricopa) ss.

On this the 2nd day of March, 19 79,
before me, the undersigned officer, personally appeared
Glenn A. Bagwell who acknowledged himself to be Vice
President of PIONEER TRUST COMPANY OF ARIZONA, a corporation,

and that he, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself.

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

Notary Public

(SEAL)

My Commission Expires:

12-26-80

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this the 2 day of MARCH, 1979,

before me, the undersigned officer, personally appeared

Colin D. [Signature] who acknowledged himself to be VICE -

PRESIDENT of ARIZONA BILTMORE ESTATES, a corporation, and that he, being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself.

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

[Signature: Thomas Callans]
Notary Public

(SEAL)

My Commission Expires:

My Commission Expires Sept 2, 1980

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this the 1 day of MARCH, 1979,

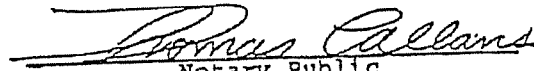
before me, the undersigned officer, personally appeared

THOMAS QUINN who acknowledged himself to be VICE -

PRESIDENT of WESTERN SAVINGS, a corporation, and that he,

being authorized to so do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself.

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


Notary Public

(SEAL)

My Commission Expires:

My Commission Expires Sept. 2, 1980

LEGAL DESCRIPTION

A portion of Parcel 11 of Arizona Biltmore Estates Unit Two Amended as recorded in Book 208 of Maps, Page 14, Maricopa County Records, Maricopa County, Arizona, and more specifically the Map of Dedication entitled Biltmore Courts, as recorded in Book 208 of Maps, Page 34, Maricopa County Records, Maricopa County, Arizona, and described as follows:

Beginning at the most southerly common corner of Parcels 10 and 11 of Arizona Biltmore Estates Unit Two Amended; thence North 85° 46' 38" East and along a southerly line of said Parcel 11, a distance of 131.04 feet to the most westerly Southwest corner of said Biltmore Courts and the TRUE POINT OF BEGINNING of the herein described parcel; thence North 10° 40' 16" East 178.38 feet to a point of curve with a curve concave southeasterly having a radius of 139.42 feet and a central angle of 59° 19' 47"; thence northeasterly along said curve, a distance of 144.37 feet to a point of tangency; thence North 70° 00' 00" East 227.17 feet to a point of curve, with a curve concave northwesterly having a radius of 237.16 feet and a central angle of 30° 05' 59"; thence northeasterly along said curve, a distance of 124.59 feet to a point of reverse curvature with a curve concave southeasterly having a radius of 19.42 feet and a central angle of 81° 29' 59"; and said point of reverse curvature is a southwesterly corner of Colony Biltmore Unit IV recorded in Book 208 of Maps, Page 33, Maricopa County Records, Maricopa County, Arizona; thence northeasterly along said curve and along a southerly boundary of said Colony Biltmore Unit IV, a distance of 27.62 feet to a point of tangency, said point being a corner of said Colony Biltmore Unit IV; thence South 58° 36' 00" East and along a southwesterly line of said Colony Biltmore Unit IV, a distance of 65.70 feet to a point of curvature with a curve concave southwesterly having a radius of 19.42 feet and a central angle of 95° 48' 57"; thence southeasterly along said curve and along a boundary of said Colony Biltmore Unit IV, a distance of 32.48 feet to a point of tangency; thence South 37° 12' 57" West and along a boundary of Colony Biltmore Unit IV, a distance of 0.38 feet; thence South 59° 27' 50" East and along a southwesterly boundary of Colony Biltmore Unit IV, a distance of 57.56 feet; thence South 37° 12' 57" West along a boundary of said Colony Biltmore Unit IV, a distance of 8 feet; thence South 59° 27' 50" East and along a southerly boundary of said Colony Biltmore Unit IV, a distance of 54.34 feet; thence South 18° 23' 46" East along a southwesterly line of said Colony Biltmore Unit IV, a distance of 66.90 feet; thence South 28° 22' 27" East and along a southwesterly line of said Colony Biltmore Unit IV, a distance of 94.71 feet to a common corner of Colony Biltmore Unit IV and said Parcel 11; thence South 8° 31' 56" West along a southerly line of said Parcel 11, 217.00 feet; thence South 66° 55' 57" West along a southerly line of said Parcel 11, 127.00 feet; thence North 82° 46' 46" West along a southerly line of said Parcel 11, 121.00 feet; thence North 59° 36' 18" West along a southerly line of said Parcel 11, 213.00 feet; thence North 71° 04' 55" West along a southerly line of said Parcel 11, 103.36 feet; thence North 85° 07' 07" West along a southerly line of said Parcel 11, 82.51 feet; thence South 22° 23' 20" West along a southerly line of said Parcel 11, 60.00 feet to a southeasterly corner of said Parcel 11; thence South 85° 46' 38" West and along a southerly line of said Parcel 11, a distance of 25.77 feet to the TRUE POINT OF BEGINNING.



EXHIBIT "A"

By *[Signature]* County Recorder
 2700

STATE OF ARIZONA } ss
 County of Maricopa }
 I hereby certify that the within instrument was filed and recorded as required by law.
 WITNESS my hand and seal of office this 10th day of March, 1979.
 J. H. Wilson
 COUNTY RECORDER
 MAR 5 - 1979 - 12:05
 In Book 10 - 62
 on page 10 - 62
 Witness my hand and seal of office this 10th day of March, 1979.
 J. H. Wilson
 COUNTY RECORDER

0X11365241387

183824

When recorded mail to
John R Call
3003 N Central Ave, Suite 1800
Phoenix Arizona 85012

✓
MOD RSTR

FIRST AMENDMENT
TO
DECLARATION OF HORIZONTAL PROPERTY REGIME,
TOGETHER WITH
COVENANTS, CONDITIONS AND RESTRICTIONS,
AND GRANTS AND RESERVATIONS OF EASEMENTS
FOR
BILTMORE COURTS

Pursuant to Article XII, Section 3 of the Declaration
of Horizontal Property Regime, together with Covenants,
Conditions and Restrictions, and Grants and Reservations of
Easements for Biltmore Courts, hereinafter referred to as
"The Declaration" as previously recorded in Docket 13479,
Pages 10 - 62, (which Declaration covers all that certain
real property legally described on Exhibit "A" attached
hereto and incorporated herein by this reference), the
Declaration is hereby amended as follows:

Article IX, Section 3, shall be amended by
the deletion therefrom of the clause "the
maximum annual assessment shall be One
Hundred Dollars (\$100.00)" and the sub-
stitution thereof of the clause "the maximum
annual assessment shall be One Thousand
Two Hundred Dollars (\$1,200.00)".

In all other respects, the Declaration shall
remain in full force and effect pursuant to its terms and
conditions.

IN WITNESS WHEREOF, the undersigned, being the owner
of more than fifty per cent (50%) of the apartment units, has
executed this document this 14th day of May, 1979.

PIONEER TRUST COMPANY OF ARIZONA,
an Arizona corporation, as Trustee

By Charles A. Johnson

Its Trust Officer

RATIFIED BY:
DIVIDEND DEVELOPMENT,
an Arizona partnership

By [Signature]

Title PARTNER

Date 5-20-79



0X113652761388

ARIZONA BILTMORE ESTATES

B. Calvin Thompson
Title Vice President
Date May 22-79

WESTERN SAVINGS AND LOAN ASSOCIATION,
an Arizona corporation

By Harry E. G.
Title V.P.
Date 5/22/79

STATE OF ARIZONA)
) ss:
County of Maricopa

On this, the 7th day of May, 1979, before
me, the undersigned Notary Public, personally appeared
Charles A. Johnson, who acknowledged himself to be the
Trust Officer of PIONEER TRUST COMPANY OF ARIZONA,
and that he as such officer, being authorized so to do, executed
the foregoing instrument for the purposes therein contained, by
signing the name of said company by himself.

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

Hannah K. Winter
Notary Public

My commission expires:

3-4-81

STATE OF ARIZONA

County of Maricopa

On this, the 21 day of MAY, 1979, before
me, the undersigned Notary Public, personally appeared
S. Todd Robinson, who acknowledged himself to be
the V. PRINCIPAL - PARTNER of DIVIDEND DEVELOPMENT, an Arizona
partnership, and that he as such partner, being authorized so
to do, executed the foregoing instrument for the purposes
therein contained, by signing the name of said partnership by
himself.

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

Thomas Pallares
Notary Public


My commission expires:

My Commission Expires Sept. 2, 1980

STATE OF ARIZONA)
) ss:
 County of Maricopa)

On this, the 22nd day of May, 1979, before me, the undersigned Notary Public, personally appeared Calvin Kempton, who acknowledged himself to be the Vice President of ARIZONA BILTMORE ESTATES, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of said company by himself.

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



 Notary Public

My commission expires:

STATE OF ARIZONA)
) ss:
 County of Maricopa)

On this, the 22nd day of May, 1979, before me, the undersigned Notary Public, personally appeared Larry E. Cox, who acknowledged himself to be the Vice President of WESTERN SAVINGS AND LOAN ASSOCIATION, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of said company by himself.

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


 Notary Public

My commission expires:

1, Comm. - May 13, 1983

WHERE RECORDED RETURN TO:
Donald E. Dyckman
6831 Fifth Avenue, Suite 200
Scottsdale, Arizona 85251

RECEIVED DEC 14 1981

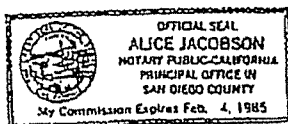
SECOND AMENDMENT TO DECLARATION
OF HORIZONTAL PROPERTY REGIME,
TOGETHER WITH COVENANTS, CONDITIONS
AND RESTRICTIONS, AND GRANTS AND
RESERVATIONS OF EASEMENTS
FOR BILTMORE COURTS

Pursuant to Article XII, Section 3 of the Declaration of Horizontal Property Regime, Together with Covenants, Conditions and Restrictions, and Grants and Reservations of Easements for Biltmore Courts ("The Declaration") recorded in Docket 11479, Pages 10 through 62, the undersigned owners of more than fifty percent (50%) of the apartment units within the Horizontal Property Regime known as Biltmore Courts hereby amends Section 8(a) of Article IX of the Declaration by deleting said Section in its entirety and substituting the following language in its place:

(a) ENFORCEMENT BY SUIT. The Board may cause a suit at law to be commenced and maintained in the name of the Association against an Owner or Member to enforce each such assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of eighteen percent (18%) per annum from the date of delinquency until paid, court costs, a late charge equal to eighteen percent (18%) per annum of each delinquent assessment for each month such assessment is delinquent and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Owner or Member.

In all other respects, the Declaration shall remain in full force and effect pursuant to its terms and conditions.

IN WITNESS WHEREOF, the undersigned, being the owners of more than fifty percent (50%) of the apartment units in Biltmore Courts, have executed this document this 11 day of December, 1981.



Alice Jacobson

Donald E. Dyckman

RECEIVED DEC 14 1981

~~(Owner, Apartment Unit No. _____)~~

STATE OF ARIZONA)
) ss.
County of Maricopa)

BEFORE ME, the undersigned authority, on this day
personally appeared _____, known
to me to be the person whose name is subscribed to the fore-
going instrument.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this
_____ day of _____, 198_____

Notary Public

My Commission Expires:
