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DECLARATION OF
HORIZONTAL PROPERTY REGIME AND
COVENANTS, CONDITIONS AND RESTRICTIONS
PARK FIFTH AVENUE CONDOMINIUMS
MARICOPA COUNTY, ARIZONA

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DECLARATION OF

HORIZONTAL PROPERTY REGIME AND
COVENANTS, CONDITIONS AND RESTRICTIONS

PARK FIFTH AVENUE CONDOMINIUMS

MARICOPA COUNTY, ARIZONA

THIS DECLARATION, made on the date hereinafter set forth, by PARK FIFTH AVENUE LIMITED PARTNERSHIP, an Arizona limited partnership ("Declarant"), is made with reference to the following facts:

A. Declarant is the owner of a certain tract of land located in the State of Arizona, County of Maricopa, more particularly described in Exhibit "A" attached hereto and incorporated by reference. The property described in Exhibit "A," together with any property annexed thereto under this Declaration, shall be referred to herein as the "Property."

B. Declarant has improved or intends to improve the Property by subdividing the Property and constructing thereon certain residential improvements and recreational facilities, and desires to submit and subject the Project to a Horizontal Property Regime pursuant to Arizona Revised Statutes, Sections 33-551 through 33-561, as the same may be amended, effective as to the various Phases of the Property as provided in Subarticle 2.6.

C. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the Condominium Units in the Project and the Owners thereof.

D. The Property subject to this Declaration will be developed in Phases according to a phased plan of development described in Subarticle 2.6.

NOW, THEREFORE, subject to Subarticle 2.6 and all other provisions of the Declaration, Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, the Project and every part thereof, in accordance with the plan for the improvement of the Property and the division thereof into Condominium Units. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarant, its

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successors and assigns and all parties having or acquiring any right, title or interest in or to any part of the Property or the Project.

ARTICLE 1

Definitions

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

1.2 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the Property which is to be paid by each Unit Owner as determined by the Association and as provided herein.

1.3 "Association" shall mean and refer to the (PARK) FIFTH AVENUE CONDOMINIUM ASSOCIATION, an Arizona nonprofit corporation, the Members of which shall be the Owners of Condominium Units in the Project. A

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

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

1.6 "Common Area" shall mean and refer to those portions of the Project for which title is held by all of the Owners as tenants in common, including the Recreational Common Area but excluding the individual Units as defined herein. The Common Area includes without limitation: Land; interior and exterior parking and driveway areas; exterior stairs; bearing walls, columns, girders, subfloors, unfinished floors, walls and ceilings not contained within a Unit; roofs and foundations; central chutes, conduits, pipes, plumbing, wires and other utility installations (except the outlets thereof when located within the Unit) required to provide power, light, telephone, gas, water, sewage, drainage, heat, air-conditioning and elevator service; sprinklers, sprinkler pipes and sprinkler heads which protrude into the airspace of the Unit; central television antennas, if any; and all facilities and improvements located within the Recreational Common Area.

1.7 "Common Expenses" means and includes the actual and estimated expenses of operating the Project and the Association and any reasonable reserve for such purpose as found and determined by the Board and all sums designated Common Expenses by or pursuant to the Project Documents.

1.8 "Common Interest" means the proportionate undivided interest in the Common Area which is appurtenant to each Condominium Unit as set forth in the Declaration.

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1.9 "Condominium Building" shall mean a residential structure containing Units.

1.10 "Condominium Plan" shall mean and refer to the recorded diagrammatic floor plan or plans of the Units built or to be built on the Property which identifies each Unit and shows its dimensions as set forth on the Map.

1.11 "Condominium Unit" shall mean an estate in real property consisting of title to a Unit within the Horizontal Property Regime hereby established and an undivided interest in the Common Area calculated pursuant to Subarticle 2.6 below, an exclusive (except as against the Association) easement to use for vehicle parking that space or spaces assigned to the original Owner of the Condominium Unit by Declarant (provided that each Condominium Unit shall include an easement for at least one parking space, reasonably proximate to the Unit) together with a non-exclusive right to use the Recreational Common Area and a membership in the Association. Each Condominium Unit shall be a separate freehold estate.

1.12 "Declarant" shall mean and refer to PARK FIFTH AVENUE LIMITED PARTNERSHIP, an Arizona limited partnership, its successors and assigns, but shall not include members of the public purchasing completed Condominium Units.

1.13 "Declaration" shall mean and refer to this enabling Declaration.

1.14 "First Mortgage" shall mean any Mortgage which is a first priority lien on any Condominium Unit.

1.15 "First Mortgagee" shall mean the holder of a First Mortgage.

1.16 "Map" shall mean and refer to that subdivision map recorded MAY 7, 1983, in Book 252 of Maps, Page 32 of the Official Records of Maricopa County, Arizona, and any subsequently recorded subdivision map and all amendments thereto which cover the Property or a portion thereof. The map is hereby made a part hereof with the same force and effect as if incorporated herein at length.

1.17 "Member" shall mean and refer to a Person entitled to membership in the Association as provided herein.

1.18 "Mortgage" shall include a recorded deed of trust as well as a recorded mortgage.

1.19 "Mortgagee" shall include the beneficiary or a holder of a deed of trust as well as a mortgagee.

1.20 "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

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1.21 "Owner" shall mean and refer to the record holder of title to a Condominium Unit in the Project. This shall include any Person having a fee simple title to any Condominium Unit, but shall exclude Persons or entities having any interest merely as security for the performance of any obligation. Further, if a Condominium Unit is sold under a recorded contract of sale to a purchaser who resides in the Unit, the resident purchaser, rather than the fee owner, shall be considered the "Owner" as long as he or a successor in interest remains the contract purchaser under the recorded contract.

1.22 "Person" means a natural person, a corporation, a partnership, a trustee or other legal entity.

1.23 "Phase" shall mean and refer to a particular parcel of Property which is part of the Project or which becomes part of the Project pursuant to the recordation of an appropriate Declaration of Annexation. Without limiting the foregoing, the Phases of development set forth in Subarticle 2.6 are not subject to this Declaration except at the time and in the manner provided in Subarticle 2.6.

1.24 "Project" shall mean and refer to the entire Property, together with all buildings, structures and improvements erected or to be erected thereon.

1.25 "Project Documents" means and includes this Declaration as it may be amended from time to time, the exhibits, if any, attached hereto, the Condominium Plan, the Map, the Articles and Bylaws of the Association and the rules and regulations for the Members as established from time to time.

1.26 "Property" means and includes the real property covered by this Declaration (including property annexed pursuant to this Declaration, if any).

1.27 "Recreational Common Area" shall mean and refer to the area or areas designed and intended to be used for common recreational purposes by the residents of the Project. The Recreational Common Area shall be part of the Common Area, and as such shall be owned by all Condominium Unit Owners as tenants in common.

1.28 "Unit" shall mean and refer to the elements of an individual unit as described in Article 2, which are not owned in common with the Owners of other Condominium Units in the Project.

1.29 "Unit Designation" means the number, letter (or combination thereof) or other official designation shown on the Condominium plan.

End of Article 1 Entitled
Definitions

ARTICLE 2

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Description of Project, Division of Project
and Creation of Property Rights

2.1 Description of Project

The Project consists of the underlying Property with the residential Units and all other improvements located or to be located thereon. The cubic content space of the Condominium Buildings within the Project with reference to their location on the Property and the cubic content space of each Unit within the Condominium Buildings is described on or can be determined from the Condominium Plan.

2.2 Division of Project

The Project is hereby divided into the following:

2.2.1 Units

Each of the Units (described as "Unit" or "Dwelling Unit" on the Condominium Plan) as separately shown, numbered and designated on the Condominium Plan is bounded by and contained within the interior finished surfaces of the perimeter walls, floors and ceilings of each Unit, and also includes all windows, doors and electrical outlets located in the perimeter walls thereof. Each Unit includes both the portions of the Condominium Building so described or contained within such boundaries and the airspace so encompassed. Each Unit also includes as appurtenances thereto the adjacent areas encompassing the following, to the extent any such area is shown on the Map as being appurtenant to the Unit:

2.2.1.1 A patio and/or balcony (patio and/or balconies), the lower boundary of which shall be the finished floor surface thereof (and to the extent there is no finished floor surface, the lower boundary shall be a plane parallel to the finished floor surface of the level of the Unit to which it is appurtenant); the upper boundary of which shall be the finished ceiling surface thereof, if any, or to the extent there is no finished ceiling surface thereof, a horizontal plane parallel to the floor surface at an elevation equal to the upper elevation of the level of the Unit to which it is appurtenant; and the side boundaries of which shall be the finished perimeter walls thereof; if any, or to the extent there is no finished wall surface thereof, vertical planes extending upward from the outside edges of the floor surface. Each area includes both the portions of the Project so described or contained within such boundaries and the airspace so encompassed. Owners shall have the sole right and obligation to landscape and maintain the landscaping on their patios, subject to reasonable rules and regulations adopted by the Association.

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The square footage and cubic content of each Unit and the appurtenant patio and/or balcony(ies) can be independently determined from the Condominium Plan. The Unit does not include those areas and those things which are defined as "Common Area" below. Each Unit and appurtenant area is subject to such encroachments as are contained in the Condominium Building of which the Unit or area is a part or to which it is adjacent. In interpreting deeds and plans, the then existing physical boundaries of a Unit or appurtenant area, whether in its original state or reconstructed substantially in accordance with the original plans therefor, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the Condominium Building and regardless of minor variances between boundaries shown on the plan or deed and those of the Condominium Building.

2.2.2 Common Area

The remaining portion of the Property, referred to herein as "Common Area," shall include all of the elements set forth in Subarticle 1.6. Each Condominium Unit Owner shall have, as appurtenant to and a part of his Condominium Unit, an undivided interest in the Common Area calculated pursuant to Subarticle 2.6. The Common Interest appurtenant to each Condominium Unit is declared to be permanent in character and cannot be altered without the consent of all the Condominium Unit Owners and the First Mortgagees of such Condominium Unit Owners, as expressed in an amended Declaration, subject to the terms and provisions of Subarticle 10.4.2 herein, except as provided in Subarticle 2.6 herein. Such Common Interest cannot be separated from the Unit to which it is appurtenant. Each Condominium Unit Owner shall have a nonexclusive right to use the Common Area in accordance with the purposes for which it is intended without hindering the exercise of or encroaching upon the rights of any other Condominium Unit Owners, subject to easements and rights created in Subarticle 1.11 and Subarticle 2.2.1. Notwithstanding the transfer of the Common Area to the Condominium Unit Owners as tenants in common, the Declarant shall reserve and hereby reserves in itself and its successors and assigns, as long as there are two classes of membership in the Association, an easement over and onto the Common Area for common driveway purposes, for drainage and for encroachment purposes and for ingress to and egress from the Common Area for the purpose of completing improvements thereon or for the performance of necessary repair work and for entry onto adjacent Property in connection with the development of additional Phases of the Project.

~~2.2.3 Recreational Common Area~~

~~That portion of the Property designed and intended to be used for common recreational purposes by the residents of the Project is "Recreational Common Area." The Recreational Common Area shall be operated and maintained by the~~

SEE AMENDED
TEXT.

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Association for the use and benefit of Owners of Condominium Units in the Project, subject to reasonable rules and regulations enacted according to the Bylaws.

2.3 No Separate Conveyance of Interests and Easements

The interests (including the Common Interest) and easements described in this Article 2, Subarticle 1.11 or elsewhere in this Declaration as being part of or appurtenant to each respective Condominium Unit are to be conveyed only as part of or with the respective Condominium Unit and cannot be changed except as set forth herein. Declarant, its successors, assigns and grantees covenant and agree that the fee title to each Condominium Unit conveyed shall include the Unit and all of the interests and easements referred to in the preceding sentence, all of which shall be deemed to be conveyed or encumbered with the Condominium Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Condominium Unit.

2.4 Partition Prohibited

The Common Area shall remain undivided as set forth above. Except as provided by Arizona Revised Statutes, Section 33-560, or by an applicable successor statute, and subject to the terms and provisions of Subarticle 10.4.2 herein, no Owner shall bring any action for partition of a Condominium Unit, 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 Condominium Unit owned by two or more Persons and division of the sale proceeds is not prohibited hereby (but partition of title to a single Condominium Unit is prohibited).

2.5 Annexation of Additional Parcels

Upon the vote or written assent of Declarant (while Declarant is an Owner) and of two-thirds (2/3) of the total votes residing in Members of the Association other than Declarant, the owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association may record a Declaration of Annexation covering the applicable portion of the property to be annexed. Said Declaration shall incorporate this Declaration by reference. The Declaration of Annexation shall contain, among other things, an appropriate exhibit setting forth the percentage interest in the Common Area of that phase to be transferred to the Owner of each Condominium Unit in that phase. Upon annexation of a new phase as provided in this Subarticle, the annexed parcel shall become subject to this Declaration without the necessity of amending individual articles hereof. The Owners of the Condominium Units in a preexisting phase will continue to have the same interest in the Common Area of their phase, will have a nonexclusive easement for ingress and egress over the Common Area of the new phase that is not a part of a Condominium Building and

will have a nonexclusive easement for the use and enjoyment of any Recreational Common Area located within the new Phase. Owners of Condominium Units in the new Phase will have such an interest in the Common Area of that Phase as shall be set forth on an exhibit to the Declaration of Annexation, will have a nonexclusive easement for ingress and egress over the Common Area of all preexisting Phases that is not a part of a Condominium Building, will have a nonexclusive easement for the use and enjoyment of any Recreational Common Area located within all preexisting Phases and will become Members of the Association.

2.6 Phased Plan of Development; Changes to Units in Subsequent Phases

Declarant currently owns all of the Property described in Exhibit A but intends to develop that Property in several Phases. Only the first Phase, consisting of thirty-two Condominium Units located on that Property described in Exhibit B, is currently part of the Project, notwithstanding any other terms or provisions of this Declaration and the remainder of the Property described in Exhibit A will be subject to the Horizontal Property Regime and Declaration in the manner and at the times set forth in this subarticle.

Effective on the date determined pursuant to the provisions of this subarticle below, the Property described in Exhibit C is hereby submitted to the Horizontal Property Regime and Declaration as Phases two through four of the Project, and shall thereafter be subject to all of the terms, provisions and conditions set forth herein.

Each Phase constituting Phases two through four of the Project shall contain thirty-nine, fifty-three and forty individual Condominium Units, respectively, as shown on the Map, with the numbered Condominium Units listed in Exhibit C.

Each Condominium Unit shall have a Common Interest as described in and calculated pursuant to Exhibit C and a proportionate obligation for Assessment calculated pursuant to Subarticle 4.3. The Common Interests set forth in Exhibit C are based on the sequential development of Phases two to four, and in the event that sequence is not followed, Declarant shall record an amendment to this Declaration setting forth the actual sequence of development and including therein the actual Common Interests of the Condominium Units calculated according to the following formula for each Unit:

square feet of the interior of the
Unit as calculated from the Map
square feet of the interiors of all
Units in the Project then subject
to the Horizontal Property Regime

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Until such time as the second Phase becomes subject to this Declaration in the manner provided below, the Project shall consist of thirty-two Condominium Units each of which shall have a Common Interest in the Common Area shown on Exhibit B with an obligation for the Assessments of the Association (except for Special Assessments levied against an individual Condominium Unit and its Owner for any violation of the Declaration, the Articles, the Bylaws or the Rules and Regulations of the Association) calculated under Subarticle 4.3.

Notwithstanding any other provision hereof, this Declaration and the Horizontal Property Regime created hereby are not effective with respect to a particular Phase (except the original Phase consisting of the thirty-two Condominium Units) unless and until the date upon which Declarant or its successor or assign records a conveyance deed or Memorandum of Lease with respect to the first Condominium Unit in such Phase, which document specifically refers to this Declaration and the Horizontal Property Regime created hereby.

All intended and planned improvements located or to be located in a new Phase must be substantially completed prior to the conveyance of the first Condominium Unit therein which will bring that Phase within the provisions of this Declaration and all such improvements must be consistent with the improvements built in the Project as originally constituted under this Declaration in terms of quality of construction. All taxes and other assessments relating to the Phase to be brought within the provisions of this Declaration for any period prior to annexation must be paid or otherwise satisfactorily provided for by Declarant or its successor or assign seeking to bring the new Phase within this Declaration.

All taxes, assessments, mechanic's liens, and other charges affecting a new Phase, covering any period prior to the subjecting of said Property to this Declaration shall be paid or otherwise provided for by Declarant in a manner satisfactory to the Federal Housing Administration or Veterans Administration before the subjecting of said Property to this Declaration so that any liens arising in connection upon said Property will not adversely affect the rights of existing Condominium Unit Owners or the priority of First Mortgages on Condominium Units in existing Phases.

Prior to subjecting Property to this Declaration pursuant to this subarticle, Declarant shall purchase, at Declarant's own expense, a liability insurance policy in an amount determined by the Federal Housing Administration or the Veterans Administration to cover any liability to which Owners of Units in the Project might be exposed by reason of the new Phase or the construction of improvements thereon. This policy shall be endorsed "as owner's interest might appear."

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Declarant may change the size, physical configuration and/or number of floors of any Units and/or number or location of Units in Phase two, three or four provided:

2.6.1 Any such change shall occur prior to the time when this Declaration, and the Horizontal Property Regime created hereby, become effective as to that Phase in the manner set forth herein.

2.6.2 Such change shall be accomplished by the recordation of an amended Map and Condominium Plan showing such changes and a Supplemental Declaration setting forth for all Units in the Project (after including the effect of the changes made) the information concerning Common Interests included herewith in Exhibit C and, in the event the changes create a new unit type, setting forth for the Units in the new Phase the new unit types and maximum annual Assessments under Subarticle 4.3, calculated to maintain the proportionate relationship of those maximum annual Assessments under said Subarticle 4.3.

2.6.3 Declarant shall have the right to make these changes without necessity for consent, approval or acceptance by any Owners, Mortgagees or other parties (except VA under the following subarticle) so long as Declarant strictly complies with the requirements set forth above.

2.7 Veterans Administration Approval

This horizontal property regime or Project may not be amended or merged with a successor horizontal property regime or Project without prior written approval of the Veterans Administration.

End of Article 2 Entitled
Description of Project, Division of Project
and Creation of Property Rights

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ARTICLE 3

Association, Administration, Membership and Voting Rights

3.1 Association to Manage Common Area

The management of the Common Area shall be vested in the Association in accordance with the Bylaws. The Owners of all the Condominium Units covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles and the Bylaws of the Association, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project.

3.2 Membership

The Owner of a Condominium Unit shall automatically, upon becoming the Owner of same, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

3.3 Transferred Membership

Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Condominium Unit to which it is appurtenant, and then only to the new Owner as provided in Subarticle 3.2 above. Any attempt to make a prohibited transfer is void. Upon the transfer of an ownership interest in a Condominium Unit, the Association shall record the transfer upon its books, causing an automatic transfer of membership as provided in Subarticle 3.2 above.

3.4 Classes of Membership

The Association shall have two (2) classes of voting membership established according to the following provisions:

3.4.1 Class A Membership

Class A Membership shall be that held by each Owner of a Condominium Unit other than Declarant (while two classes of membership exist), and each Class A Member shall be entitled to one (1) vote for each Condominium Unit owned. If a Condominium Unit is owned by more than one (1) Person, each such Person shall be a Member of the Association but there shall be no more than one (1) vote for each Condominium Unit.

3.4.2

Class B Membership

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Class B Membership shall be that held by Declarant (or its successor) which shall be entitled to three (3) votes for each Condominium Unit owned by Declarant, provided that Class B Membership shall be converted to Class A Membership and shall forever cease to exist on the occurrence of whichever of the following is first in time:

3.4.2.1 The total outstanding votes held by Class A Members equals the total outstanding votes (tripled as above) held by the Class B Member; or

3.4.2.2 The fifth anniversary of the close of escrow for the sale of the first Condominium Unit by Declarant.

For purposes of determining the above conversion of Class B Membership to Class A Membership, the votes of the Members shall be calculated as though there were one hundred sixty-seven (167) Condominium Units in the Project, said one hundred sixty-seven (167) Condominium Units being the planned total of the Project as specified in Subarticle 2.6, with the voting rights of all one hundred sixty-seven (167) Condominium Units allocated to Declarant except for the voting rights for Condominium Units which vest or have vested in other Condominium Unit Owners, provided however, that the foregoing provision shall forever expire and cease to be effective on the fifth anniversary of the close of escrow for the sale of the first Condominium Unit. Thereafter, the conversion of Class B Membership to Class A Membership under Subarticle 3.4.2.1 shall be calculated based on the actual number of Condominium Units in the Project.

3.5 Voting Requirements

Any action by the Association which must have the approval of the Association membership before being undertaken shall require the vote of fifty-one percent (51%) of the membership present and voting at a duly called and held meeting of the membership at which a quorum as prescribed herein or in the Bylaws has been constituted or the written assent of fifty-one percent (51%) of the membership unless another percentage is specifically prescribed by a provision within this Declaration, the Bylaws or the Articles of the Association.

3.6 Voting Rights

Voting rights attributable to all Condominium Units owned by Declarant shall vest immediately by virtue of Declarant's ownership thereof. Except for Declarant, no Owner of any Condominium Unit shall have any voting rights attributable to that Condominium Unit until an Assessment has been levied against that Condominium Unit and Owner by the Association pursuant to Article 4 below.

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3.7 Membership Meetings

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place and in accordance with the provisions of the Bylaws of the Association.

3.8 Board of Directors

The affairs of the Association shall be managed by a Board of Directors which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

End of Article 3 Entitled
Association, Administration, Membership and Voting Rights

ARTICLE 4

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Assessments and Charges

4.1 Creation of the Lien and Personal Obligations for Assessments and Charges

Each Owner of any Condominium Unit, by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) regular annual Assessments, (b) special Assessments for capital improvements and unexpected expenses and (c) other charges made or levied by the Association against the Owner or Condominium Unit pursuant to this Declaration or the Bylaws, such Assessments and charges to be established and collected as provided herein and in the Bylaws of the Association. Any part of any Assessment (or other amount due from the Owner to the Association, including interest) not paid within thirty (30) days after the due date established in this Article 4, Subarticle 10.15 or elsewhere in this Declaration shall bear interest at the rate of ten percent (10%) per annum from the due date until paid. The annual and special Assessments and any other charge made against an Owner or a Condominium Unit pursuant to this Declaration or the Bylaws, together with interest, costs and reasonable attorneys' fees incurred by the Association in enforcing compliance with this Declaration (whether or not a lawsuit or other legal action is instituted or commenced) as provided in Subarticle 10.15.2, shall be a charge and a continuing lien upon the Condominium Unit (hereinafter "Assessment lien"). Each such Assessment and charge, together with interest, costs and reasonable attorneys' fees as provided above, shall also be the personal obligation of the Person who was the Owner of such Condominium Unit at the time the Assessment or other charge fell due as provided in this Article 4, Subarticle 10.15 or elsewhere in this Declaration. The Assessment lien on each Condominium Unit shall be prior and superior to all other liens except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto and (b) the lien or charge of any First Mortgage on that Condominium Unit. No Owner of a Condominium Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Condominium Unit.

4.2 Purpose of Assessments

The Assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement and maintenance of the Common Area and for the common good of the Project. Annual Assessments shall include an adequate reserve fund for taxes, insurance, maintenance, repairs and replacement of the Common Area, which fund shall be maintained in a separate account of the Association to be drawn upon only for those purposes.

4.3 Annual Assessments

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The Board shall annually determine and fix the amount of the annual (calendar year) Assessment against each Condominium Unit, including those owned by Declarant and shall notify the Owner of each Condominium Unit in writing as to the amount of such annual Assessment not less than thirty (30) days prior to the date that such Assessment is to commence. Except as to the first annual Assessment, the annual Assessment may not be increased above an amount consistent with the percentage increase, if any, in the Consumer Price Index - United States City Average for Urban Wage Earners and Clerical Workers - All Items (published by the Department of Labor, Washington, D.C.), for the year ending with the preceding July (or a similar Index if the above described Index is no longer published), nor decreased by more than twenty percent (20%) below the annual Assessment for the previous year, without the affirmative vote of two-thirds (2/3) of the Members of each class of the Association membership voting in person or by proxy, at a meeting duly called for this purpose. All annual Assessments shall be payable in twelve (12) equal monthly installments. In the year prior to January 1 of the year immediately following the close of escrow on the sale of the first Condominium Unit in the Project, the maximum annual Assessment per Condominium Unit shall be as follows:

<u>UNIT TYPE</u>	<u>ASSESSMENT AMOUNT</u>
1	\$62.00
2	\$66.00
3	\$70.00
4	\$75.00
5	\$80.00

SEE
AMENDED
TEXT

The annual Assessment shall be prorated based on the number of months remaining before January 1 of such year, as well as any partial months remaining. The Units in the Project vary substantially in size and the maximum annual Assessments for the first year set forth above reflect this fact. All annual Assessments against the Condominium Units shall be levied so as to maintain the proportionate relationship of the maximum annual Assessments set forth above and this requirement shall apply whether Assessments are fixed within the maximum annual Assessments for the year in question or are increased above said maximums pursuant to the provisions set forth above.

Declarant shall establish a working capital fund for the Association for the initial months of the Project operations equal to at least two (2) months' estimated monthly Assessments for each Condominium Unit and each Condominium Unit's share shall be collected and paid to the Association at the time

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TEXT

that the sale of that Unit is closed. Within sixty (60) days after closing the sale of the first Unit in the Project or latest Phase, Declarant shall pay each unsold Unit's share to the Association, but Declarant may be reimbursed therefor from the buyers of those Units. These monies shall be held in a segregated fund.

4.4 Special Assessments

In addition to the regular annual Assessments authorized above, the Board may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense normally covered by a regular Assessment (and, where necessary, for taxes assessed against the Common Area), provided however, that no such special Assessment shall be made without the affirmative vote of two-thirds (2/3) of each class of the Association membership voting in person or by proxy, at a meeting duly called for this purpose.

2/3 vote

4.5 Notice and Quorum for Any Action Authorized Under Subarticles 4.3 and 4.4

Written notice of any meeting called for the purpose of taking any action authorized under Subarticles 4.3 or 4.4 shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies therefor entitled to cast sixty percent (60%) of all the votes of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.6 Allocation of Assessments

The Owners of each Condominium Unit, including those owned by Declarant, shall bear a share of each regular and special Assessment proportionate to the maximum annual Assessments for the first year for the various Unit Types as set forth in Subarticle 4.3.

4.7 Date of Commencement of Annual Assessment; Due Dates

The regular annual Assessments provided for herein shall commence as to each Condominium Unit in the Project on the first day of the month following the close of escrow on the sale of the first Condominium Unit in the Project. Regular annual

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Assessments shall commence as to all Condominium Units in any Phase which becomes subject to this Declaration under Subarticles 2.5 or 2.6 on the first day of the month following the effective date that Phase becomes subject to this Declaration. Due dates of Assessments shall be established by the Board and notice shall be given to each Condominium Unit Owner at least thirty (30) days prior to any due date, provided that if Assessments are to be due on a monthly basis, no notice shall be required other than an annual notice setting forth the amount of the monthly Assessment and the day of each month on which each Assessment is due.

4.8 Transfer of Unit by Sale or Foreclosure

The sale or transfer of any Condominium Unit shall not affect the Assessment lien or liability for Assessments due and payable except as provided below. No sale or transfer of a Condominium Unit shall relieve such Condominium Unit from liability for any Assessments thereafter becoming due or from the lien therefor. Where, however, the First Mortgagee of a First Mortgage of record or another Person obtains title to a Condominium Unit as a result of foreclosure, trustee's sale or deed in lieu thereof of any such First Mortgage, such First Mortgagee or other Person shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Condominium Unit which became due prior to the acquisition of title to such Condominium Unit by such First Mortgagee or other Person, and the Assessment lien therefor on such Condominium Unit shall be extinguished. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from all of the Condominium Units. In a voluntary conveyance of a Condominium Unit, the grantee of the same shall not be personally liable for Assessments or any other charges due to the Association in connection with that Condominium Unit which accrued prior to the conveyance unless liability therefor is specifically assumed by the grantee. Any such grantee shall be entitled to a statement from the Association setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for nor shall the Condominium Unit conveyed be subject to a lien for any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement, provided however, the grantee shall be liable for any such Assessment becoming due after the date of any such statement.

4.9 Enforcement of Assessment and Other Monetary Obligations; Discipline; Remedies Cumulative

4.9.1 Enforcement and Foreclosure of Lien

When any Assessment or other amount due from an Owner to the Association is not paid within 30 days after the due date, the lien therefor may be enforced by foreclosure of the lien and/or sale of the Owner's Condominium Unit by the Association, its attorney or other Person authorized by this Declaration or by law to make the sale or as provided herein. The

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lien may be foreclosed and the Condominium Unit sold in the same manner as a realty mortgage and property mortgaged thereunder, the Condominium Unit may be sold pursuant to the statutory or customary procedures for sales of trust property under deeds of trust (with the Association acting as trustee) or the lien may be enforced or foreclosed in any other manner permitted by law for the enforcement or foreclosure of liens against real property or the sale of property subject to such a lien. Any such enforcement, foreclosure or sale action may be taken without regard to the value of such Condominium Unit, the solvency of the Owner thereof or the relative size of the Owner's default. Upon the sale of a Condominium Unit pursuant to this Subarticle, the purchaser thereof shall be entitled to a deed to the Condominium Unit and to immediate possession thereof, and said purchaser may apply to a court of competent jurisdiction for a writ of restitution or other relief for the purpose of acquiring such possession. The proceeds of any such sale shall be applied as provided by applicable law but, in the absence of any such law, shall be applied first to discharge costs thereof, including but not limited to court costs, other litigation costs, costs and attorneys' fees incurred by the Association, all other expenses of the proceedings, interest, late charges, unpaid Assessments and other amounts due to the Association, and the balance thereof shall be paid to the Owner. It shall be a condition of any such sale, and any judgments or orders shall so provide, that the purchaser shall take the interest in the Condominium Unit sold subject to this Declaration. The Association, acting on behalf of the Condominium Unit Owners, shall have the power to bid for the Condominium Unit at any sale and to acquire and hold, lease, mortgage or convey the same. In the event the Owner against whom the original Assessment was made is the purchaser or redemption or, the lien shall continue in effect and said lien may be enforced by the Association for the Condominium Unit's Assessments and other amounts that were due prior to the final conclusion of any such foreclosure, sale or equivalent proceedings. Further, notwithstanding any foreclosure of the lien or sale of the Condominium Unit, any Assessments and other amounts due after application of any sale proceeds as provided above shall continue to exist as personal obligations of the defaulting Owner of the Condominium Unit to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a Member of the Association.

4.9.2 Remedy of Possession

In addition to all other remedies provided for in this Declaration or at law or in equity, in the event any Assessment or other amount due from an Owner to the Association is past due, the Association may take possession of the Owner's Condominium Unit, rent the Condominium Unit and apply the rents received to the amounts due, together with interest as provided herein and costs and attorneys' fees incurred by the Association in connection with such action.

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4.9.3 Suspension of Rights

In addition to all other remedies provided for in this Declaration or at law or in equity, the Board may temporarily suspend the Association voting rights and/or rights to use the Recreational Common Area of a Condominium Unit Owner who is in default in the payment of any Assessment or any other amount due to the Association as provided in the Bylaws.

4.9.4 Other Remedies

The rights, remedies and powers created and described in Subarticles 4.9.1, 4.9.2, 4.9.3, 10.15 and elsewhere in this Declaration, the Articles or the Bylaws are cumulative and may be used or employed by the Association in any order or combination, except as specifically provided to the contrary herein. Without limiting the foregoing sentence, suit to recover a money judgment for unpaid Assessments, interest, rent, costs, attorneys' fees and/or other amounts due hereunder, to obtain specific performance of obligations imposed hereunder and/or to obtain injunctive relief may be maintained without foreclosing, waiving, releasing or satisfying the liens created for Assessments or other amounts due hereunder.

4.10 Unallocated Taxes

In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than against the Condominium 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 all of the Condominium Units in an amount equal to said taxes on a pro rata basis equal to the Common Interest appurtenant to each Condominium Unit.

4.11 Tax Assessments

As provided in Arizona Revised Statutes, Section 33-558, no taxes, assessments or charges which may become liens on any Condominium Unit prior to any First Mortgage under Arizona law shall affect the Common Area as a whole. Such taxes, assessments or charges shall only be levied separately on each Condominium Unit in its respective appurtenant Common Interest.

End of Article 4 Entitled
Assessments and Charges

ARTICLE 5

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Duties and Powers of the Association

5.1 Duties and Powers

In addition to the duties and powers enumerated in the Bylaws and the Articles, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

5.1.1 Except as provided in Subarticle 5.2 and Subarticle 10.5, maintain, repair, replace, restore, operate and manage all of the Common Area (including parking spaces subject to easements created as provided in Subarticle 1.11), all facilities, improvements, furnishings, equipment and landscaping thereon and all property that may be acquired by the Association in good condition. This obligation shall not extend to the maintenance of any portion or facility of the Common Area required to be maintained by an individual Owner under this Declaration or the Bylaws. The Association shall also paint or otherwise decorate and maintain the interior finished ceiling, wall and floor surfaces of all patios and balconies in the Project.

5.1.2 Enforce the provisions of this Declaration by appropriate means, including without limitation the expenditure of funds of the Association, the employment of legal counsel and the commencement of legal actions.

5.1.3 Maintain such policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members.

5.1.4 Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and the Units.

5.1.5 Have the authority to employ a manager or other Persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.

5.1.6 Adopt reasonable rules not inconsistent with this Declaration, the Articles or the Bylaws relating to the use of the Common Area and all facilities thereon and the conduct of Owners and their tenants and guests with respect to the Project and other Owners.

5.2 Maintenance of Project by Association

The Association shall provide maintenance of the Project as provided in this Declaration. The Association shall not be responsible for maintaining and repairing glass surfaces or capital improvements built or placed by an Owner on or within his Unit or within the patio or balcony(ies) appurtenant thereto. The Association shall maintain, repair and replace all patio and balcony walls or fences and the Association shall have access thereto at all times for the maintenance, repair or replacement thereof. The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner or his guests, tenants or invitees. The repair or replacement of any portion of the Common Area resulting from such excluded items shall be the responsibility of each Owner, provided however, that if an Owner shall fail to make the repairs or replacements which are the responsibility of such Owner, the Association, acting through the Board, shall have the right (but not the obligation) to enter the Unit and make such repairs or replacements, and the cost thereof shall be added to the Assessments chargeable to that Condominium Unit and shall be payable to the Association by the Owner of such Condominium Unit.

5.3 Association Easements and Access to Units

For the purpose of performing the maintenance authorized by this article, or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an easement over and onto all portions of the Common Area and shall also have the right, after reasonable notice to the Owner and at reasonable hours, to enter any Unit. The Association shall have the right to grant permits, licenses and easements over the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

5.4 Custodian Unit

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

5.4.1 No right to vote shall be exercised on behalf of the Custodian Unit;

5.4.2 No Assessment shall be assessed or levied against the Custodian Unit; and

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5.4.3 Each other Condominium 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 Subarticle.

End of Article 5 Entitled
Duties and Powers of the Association

ARTICLE 6

Utilities

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6.1 Owners' Rights and Duties

The rights and duties of the Owners of Condominium Units within the Project with respect to utilities shall be as follows:

6.1.1 Whenever sanitary, sewer, water, electric, gas, television receiving, telephone lines or connections, heating or air-conditioning conduits, ducts or flues are located or installed within the Project, which connections or any portion thereof lie in or upon Units owned by other than the Owner of a Unit served by said connections, the Owners of any Units served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Units or to have the utility companies enter upon the Units in or upon which said connections or any portion thereof lie to repair, replace and generally maintain said connections as and when necessary. An Owner or utility company exercising his/its right of entry pursuant to this Subarticle shall give reasonable notice to the Owner of a Unit prior to entering therein.

6.1.2 Whenever sanitary, sewer, water, electric, gas, television receiving, telephone lines or connections, heating or air-conditioning conduits, ducts or flues are located or installed within the Project, which connections serve more than one Unit, the Owner of each Unit served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service his Unit.

6.1.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

6.2 Easements for Utilities and Maintenance

Easements over and under the Common Area for the installation, repair and maintenance of sanitary, sewer, water, electric, gas, telephone lines and facilities, heating and air-conditioning facilities, cable or master television antenna lines, drainage facilities, walkways and landscaping, as shown on the Map of the Property and as hereafter may be required to service the Property, are hereby reserved for the Association, and its successors and assigns, together with the right to grant and transfer the same.

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6.3 Association's Duties

The Association shall maintain all utility installations located in the Common Area except for those installations maintained by utility companies, public, private or municipal. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Units, which shall be paid by the respective Owners of those Units.

End of Article 6 Entitled
Utilities

ARTICLE 7

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Use Restrictions

In addition to all of the covenants contained herein, the use of the Property and Project and each Unit therein is subject to the following:

7.1 Use of Individual Units

No Unit shall be occupied and used except for single family residential purposes by the Owners, their tenants and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns may use any Unit or Units in the Project owned by Declarant for a model home site or sites and display and sales office during construction and until the last Unit in the entire Project is sold.

7.2 Nuisances

No noxious, illegal or offensive activities shall be conducted in any Unit or on any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to, or which may in any way interfere with, the quiet enjoyment of each Owner of his respective Condominium Unit or which shall in any way increase the rate of insurance for the Project or cause any insurance policy to be cancelled or cause a refusal to renew the same or which will impair the structural integrity of any Condominium Building. Any increase in the insurance premiums for the Project caused by an Owner shall be paid for by such Owner.

7.3 Vehicle Restrictions

No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pick-up truck), inoperable automobile, boat or similar equipment shall be permitted to remain upon any area within the Project other than temporarily (for purposes of loading and unloading of passengers or personal property), unless placed or maintained within an enclosed garage or carport or in an area specifically designed for such purpose by the Board. Commercial vehicles shall not include sedans or standard size pick-up trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property. No off-road, licensed or unlicensed, motor vehicles shall be maintained or operated upon the Property except as reasonably necessary for the execution of the rights or duties of the Association under this Declaration.

7.4 Signs

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Signs advertising Condominium Units for sale or rent may be displayed on the Property, provided that such signs shall be of reasonable and customary size and shall be displayed only at such location or locations within the Common Area as shall be designated for such purpose by the Board. Except as expressly permitted by this Subarticle 7.4, no signs shall be displayed to the public view on any Units or on any portion of the Property unless first approved by the Board or the Architectural Control Committee.

7.5 Animals

No animals or birds of any kind shall be raised, bred or kept in any Unit or on any portion of the Property, except that usual and ordinary household pets such as dogs, cats or birds may be kept, provided that they are kept under reasonable control at all times. The Board may enact reasonable rules respecting the keeping of such animals within the Project and may designate certain areas in which such animals may be taken. The Association, by and through the Board, reserves the right to have such pets removed if the pets' behavior becomes objectionable to the Members of the Association, which right shall not be unreasonably applied.

7.6 Garbage and Refuse Disposal

All rubbish, trash and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment, garbage cans, woodpiles or storage piles shall be kept screened and concealed from view of the other Units, streets and the Common Area.

7.7 Radio and Television Antennas

No alteration to or modification of a central radio or television antenna system or cable television system, whichever is applicable, if any, shall be permitted, and no Owner may be permitted to construct, use or operate his own external radio or television antenna without the consent of the Board.

7.8 Right to Lease

The respective Units shall not be rented by the Owners thereof for transient or hotel purposes which shall be defined as (a) rental for any period less than thirty (30) days or (b) any rental if the occupants of the Unit are provided customary hotel service such as room service for food and beverages, maid service, laundry and linen service and bellboy service. Subject to the foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Units, provided that the lease is in writing and is specifically

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made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the Bylaws and any reasonable rules and regulations published by the Association.

7.9 Clothes Lines; Window Coverings

No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes. Furthermore, no clothing, laundry or other personal items are to be hung out on the patios, carports or entry courts of the Units. No kind of foil or darkening screen shall be placed upon the windows of the Units nor shall the patios, carports or entry courts of the Units be used for storage purposes.

7.10 Power Equipment and Car Maintenance --

No power equipment, work shops or car maintenance (other than emergency work or minor repairs requiring less than one (1) day's work) shall be permitted on the Project except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception and similar objections.

7.11 Liability of Owners for Damage to Common Area

The Owner of each Condominium Unit shall be liable to the Association for all damage to the Common Area or improvements thereon caused by such Owner or any occupant, guest or invitee of or to his Unit to the extent such Owner is responsible therefor under the statutory or case law of the State of Arizona. In addition to the foregoing, damage to party walls is subject to the provisions of Article 9.

7.12 No Warranty of Enforceability

While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 7 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 Condominium 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 Condominium Unit agrees to hold Declarant harmless therefrom.

End of Article 7 Entitled
Use Restrictions

ARTICLE 8

Architectural Control8.1 Prohibition of Alteration and Improvement

Subject to the exemption of Declarant under Subarticle 10.9 below, no building, fence, wall, obstruction, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, improvement or structure of any kind shall be commenced, erected, painted or maintained upon the Project, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by an Architectural Control Committee (the "Committee") appointed by Declarant or elected by the Board as provided in this article. There shall be no construction, alteration or removal of any structure or improvement in the Project which would impair or affect the integrity or stability of any existing structure. No Owner shall install or replace an air-conditioning unit without the prior written approval of the Committee which shall have the right to approve or disapprove the size, shape, noise level and proposed location of such air-conditioning unit.

8.2 Plans and Approval

Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements or alterations shall be submitted to the Committee for approval as to quality of workmanship, design and harmony of external design with existing structures and as to location in relation to surrounding structures, topography and finished grade elevation. No permission or approval shall be required to rebuild in accordance with plans and specifications previously approved by the Committee. No landscaping of patios or yards visible from the street or from the Common Area shall be undertaken by any Owner until plans and specifications showing the nature, kind, shape and location of the materials shall have been submitted to and approved in writing by the Committee. In the event the Committee fails to approve or disapprove such plans, specifications and proposed improvement or alteration within forty-five (45) days after said plans and specifications have been submitted to it, written approval by the Committee will not be required and this article will be deemed to have been fully complied with.

8.3 Architectural Control Committee

The number, appointment and term of members of the Committee shall be as follows:

8.3.1 There shall be three (3) members on the Committee.

8.3.2 Declarant may appoint all of the original and replacement members of the Committee and, at any time, may remove and replace any of the members of the Committee

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until the termination of Class B Membership as provided in Subarticle 3.4.2. The Board shall thereafter have the power to appoint replacements for or remove and replace any or all of the members of the Committee. Subject to the right and power of the Board to remove and replace, at any time, any member of the Committee, Committee members or replacements appointed by the Board shall serve one (1) year terms.

8.3.3 Committee members appointed by Declarant need not be Members of the Association. Committee members appointed by the Board shall be Members of the Association. Officers and Directors of the Association can be members of the Committee.

End of Article 8 Entitled
Architectural Control

ARTICLE 9

Party Walls9.1 Creation of Party Wall Rights and Duties

Each wall, including patio walls, which is constructed as part of the original construction of a Condominium Building or as part of any reconstruction thereof, any part of which is placed on the dividing line between separate Units, shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

9.2 Damage by Act of Owner

In the event any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild and repair the same to as good a condition as formerly existed without cost to the adjoining Owner or the Association. In the event any such party wall is damaged or destroyed through or from any other cause, the Association shall be responsible for rebuilding or repairing the same at its cost pursuant to Subarticle 5.2.

9.3 Negligence

In the event any party wall is exposed to the elements through the act of one adjoining Owner or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable), said Owner shall bear the whole cost of furnishing the necessary protection against such elements, but in the event any such party wall is exposed to the elements through any other cause, the Association shall furnish the necessary protection against such elements.

9.4 Alterations or Modifications

In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his Unit in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

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9.5 Disputes

In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, the matter shall be submitted to three arbitrators, one chosen by each of the Owners and the third arbitrator to be chosen within five (5) days by any judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the Owners who shall share the cost of arbitration equally. In the event one Owner fails to choose an arbitrator within ten (10) days after personal receipt of a request in writing for arbitration from the other Owner, then said requesting Owner shall have the right and power to choose both arbitrators.

9.6 Benefit and Binding Effect

These covenants shall be binding upon the heirs and assigns of every Owner but no Person shall be liable for any act or omission respecting any party wall except such as took place while said Person was an Owner.

End of Article 9 Entitled
Party Walls

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ARTICLE 10

General Provisions

10.1 Invalidity of Any Provision

Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

10.2 Amendments

Subject to the standards set forth in any applicable laws, regulations or ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project and the rights of the Owners and First Mortgagees provided herein, this Declaration may be amended only by the vote or written assent of seventy-five percent (75%) or more of the total voting power of the Association, provided however, that the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. The requirements of Subarticle 10.2.1 for the amendment of certain provisions of the Project Documents shall be in addition to the requirements set forth in this Subarticle 10.2.

Declarant may alter the interior design of the Units, the size of and boundaries between Condominium Units and the percentage interest which Condominium Units bear to the entire Horizontal Property Regime at any time so long as (a) such altered Units are owned by Declarant and (b) such alterations do not modify or change the size, the boundaries, the Common Interest or the share of the Common Expenses of any Units not owned by Declarant.

10.2.1 Additional Requirements for Amendment of Certain Provisions

The following Subarticles do not apply to amendments to the Project Documents or termination of the Horizontal Property Regime made as a result of destruction, damage or condemnation or to a reallocation of Common Interests which may occur pursuant to Subarticle 2.6:

10.2.1.1 The consent of Owners of Condominium Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible First Mortgagees (as defined in Subarticle 10.4.3.1.4) holding First Mortgages on Condominium Units which have at least sixty-seven percent (67%) of the votes of Condominium Units subject to First Mortgages held by Eligible First Mortgagees shall be required to terminate the legal status of the Project as a statutory Horizontal Property Regime under Arizona law; and

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

10.2.1.2.1 Voting;

assessment liens or subordination of such liens; 10.2.1.2.2 Assessments, as-

10.2.1.2.3 Reserves for maintenance, repair and replacement of the Common Area;

10.2.1.2.4 Insurance or fidelity bonds;

10.2.1.2.5 Rights to use of the Common Area;

10.2.1.2.6 Responsibility for maintenance and repair of the various portions of the Project;

10.2.1.2.7 Expansion or contraction of the Project or the addition, annexation or withdrawal of property to or from the Project;

Unit; 10.2.1.2.8 Boundaries of any

of the Condominium Units; 10.2.1.2.9 Common Interests

Units into Common Area or of Common Area into Units; 10.2.1.2.10 Convertibility of

minium Units; 10.2.1.2.11 Leasing of Condo-

10.2.1.2.12 Imposition of any right of first refusal or similar restriction on the right of a Condominium Unit Owner to sell, transfer or otherwise convey his/her Condominium Unit; and

10.2.1.2.13 Any provisions which are for the express benefit of Mortgagees, Eligible First Mortgagees or Eligible Insurers or Guarantors (as defined in Subarticle 10.4.3.2) of First Mortgages on Condominium Units.

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10.2.1.3 An addition or amendment to the Project Documents shall not be considered "material" if it is for the purpose of correcting technical errors or for clarification only. An Eligible First Mortgagee which receives a written request to approve additions or amendments under Subarticle 10.2.1.1. or 10.2.1.2 and which does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

10.3 Encroachment Easements

Each Unit within the Project is hereby declared to have an easement over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of buildings or any other similar cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting, provided however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a Unit or Condominium Building is partially or totally destroyed and then repaired or rebuilt, the Owners of all Units agree that minor encroachments over adjoining Units or the Common Area shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

10.4 Mortgagee Protection Clause

10.4.1 Rights of First Mortgagees

10.4.1.1 No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of any First Mortgage on any Condominium Unit, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure, trustee's sale or otherwise.

10.4.1.2 All amenities pertaining to the Project and located on the Property (such as parking, recreation and service areas) are a part of the Project and shall be covered by and subject to a Mortgage on a Condominium Unit to the same extent as is the Common Area.

10.4.1.3 An action to abate the breach of any of these covenants, conditions, restrictions and reservations may be brought against the purchaser who has acquired title through foreclosure of a First Mortgage and the subsequent sheriff's sale (or through any equivalent proceedings) and the successor in interest to said purchaser if the breach continues to exist after the time said purchaser acquired an interest in such Condominium Unit.

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10.4.1.4 During the pendency (including any period for redemption) of any proceedings to foreclose a First Mortgage (or from the time a trustee under a first deed of trust has given notice of sale pursuant to the power of sale conferred under the deed of trust and pursuant to law), the First Mortgagee, or a receiver appointed in any such action, may but need not exercise any or all of the rights and privileges of the Owner of the Condominium Unit in default, including but not limited to the right to vote as a Member of the Association in the place and stead of the defaulting Owner.

10.4.1.5 Notwithstanding anything contained herein to the contrary, at such time as the First Mortgagee shall become record Owner of a Condominium Unit, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration, including but not limited to the obligation to pay all Assessments and charges accruing thereafter in the same manner as any other Condominium Unit Owner.

10.4.2 Changes Requiring Approval of Mortgagees

Notwithstanding anything to the contrary contained in this Declaration, without the prior written approval of Declarant (while Declarant is an Owner of any Units) and of at least two-thirds (2/3) of the First Mortgagees (based upon one (1) vote for each First Mortgage held) or of the Owners other than Declarant (except as provided by statute in case of condemnation or substantial loss to the Units and/or Common Area of the Project), the Association or Owners shall not be entitled to and no provision of this Declaration shall be applied, effective, interpreted or construed to (or entitle the Association or Owners to):

10.4.2.1 Change the Common Interests of the Condominium Units, the share of Assessments charged to any Condominium Unit or the method of determining such Assessments (except as specifically provided in Subarticle 2.6);

10.4.2.2 By act or omission, seek to terminate or abandon the status of the Project as a statutory Horizontal Property Regime;

10.4.2.3 Allow partition or subdivision of any Condominium Unit except as provided in Subarticle 2.4;

10.4.2.4 Change the interest of any Condominium Unit in the allocation or distribution of hazard insurance proceeds or condemnation awards (except as provided in Subarticle 2.6);

10.4.2.5 By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any portion or element of the Common Area (the granting of easements

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for public utilities or for other public purposes consistent with the intended use of such Property shall not be deemed a transfer within the meaning of this clause);

10.4.2.6 Use hazard insurance proceeds for losses or damages to any portion of the Project for other than the repair, replacement or reconstruction thereof; or

10.4.2.7 Change the provisions of this Declaration so as to give an Owner, or any other party, priority over any rights of First Mortgagees pursuant to their Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Units or the Common Area.

The foregoing requirements are in addition to the requirements set forth in Subarticle 10.2.

10.4.3 Rights of First Mortgagees and Insurers or Guarantors of First Mortgages

10.4.3.1 Upon written request to the Association identifying the name and address of the First Mortgagee for any Condominium Unit or the insurer or guarantor of such First Mortgage and the Condominium Unit number or address, any such First Mortgagee or insurer or guarantor of such First Mortgage will be entitled to timely written notice of:

10.4.3.1.1 Any condemnation loss or any casualty loss which affects a material portion of the Project or any Condominium Unit on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee or insurer or guarantor, as applicable;

10.4.3.1.2 Any delinquency in the payment of Assessments or charges owed or other default in the performance of obligations under the Project Documents by an Owner of a Condominium Unit subject to a First Mortgage held, insured or guaranteed by such First Mortgagee or insurer or guarantor which remains uncured for a period of sixty (60) days;

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

10.4.3.1.4 Any proposed action which would require the consent of a specified percentage of "Eligible First Mortgagees" (meaning First Mortgagees who have filed a written request as described above in this Subarticle 10.4.3.1) as specified in Subarticle 10.4.3.2 or in Subarticle 10.2.

10.4.3.2 When professional management previously has been required by an Eligible First Mortgagee or any "Eligible Insurer or Guarantor" (meaning an insurer or

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governmental guarantor of a First Mortgage which has requested notice of certain matters in accordance with Subarticle 10.4.3.1 above), whether such entity became an Eligible First Mortgagee or Eligible Insurer or Guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of Owners of Condominium Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of Eligible First Mortgagees of Condominium Units which have at least fifty-one percent (51%) of the votes of Condominium Units subject to First Mortgages held by Eligible First Mortgagees.

10.4.4 Mortgage Priority

Notwithstanding any language contained in this Declaration to the contrary, no Condominium Unit Owner and no other party shall have priority over any rights of First Mortgagees pursuant to their Mortgages in the case of a distribution to Condominium Unit Owners of insurance proceeds or condemnation awards for losses to or taking of Condominium Units and/or any portion or element of the Common Area.

10.4.5 Compliance with FHLMC and FNMA Regulations

The Declarant intends that the Project shall comply with all requirements of the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA) pertaining to the purchase by the FHLMC of conventional home loans. Declarant and all Unit Owners therefore agree that, in the event the Project or any of the Project Documents do not comply with the FHLMC and FNMA requirements, the Board shall have the power (on behalf of the Association) to enter into any agreement with the FHLMC or FNMA (or its designee) reasonably required by the FHLMC or FNMA to allow the Project to comply with such requirements and make such changes in the Project Documents to effectuate the same.

10.4.6 Payment of Taxes and Insurance Premiums by Mortgagees

First Mortgagees may, jointly or singly, pay any taxes, Assessments or other charges which are in default and which may or have become a lien or charge against the Common Area and may pay overdue premiums on hazard insurance policies (or secure new hazard insurance coverage on the lapse of a policy) for the Common Area. Any First Mortgagee making such payments shall be entitled to immediate reimbursement therefor from the Association.

10.4.7 Owner's Right to Sell Condominium Unit

The right of any Owner to sell, transfer or otherwise convey his Condominium Unit shall not be subject to any right of first refusal or any similar restriction in favor of the Association.

10.4.8 Right to Inspect Documents; Audited Financial Statements

The Association shall make available to Owners, Mortgagees and Insurers or guarantors of First Mortgages current copies of the Declaration, Articles, Bylaws, rules of the Association and the books, records and financial statements of the Association. "Available" means available for inspection (and copying at the expense of the requesting party), upon request, during normal business hours or under other reasonable circumstances. In addition, First Mortgagees holding fifty-one percent (51%) or more of First Mortgages shall be entitled to have prepared, at their expense, an audited financial statement of the Association for the immediately preceding fiscal year if one is not otherwise available, and the Association shall have prepared and distributed such statement to the First Mortgagees requesting it within a reasonable time following receipt by the Association of the required requests.

10.5 Owner's Right and Obligation to Maintain and Repair

Except for those portions of the Project which the Association is required to maintain and repair, each Unit Owner shall, at his sole cost and expense, maintain and repair his Unit, keeping the same in good condition. Additionally, each Owner shall maintain, repair and replace as necessary any separate air-conditioning, cooling, heating and/or water-heating units (and all wires and connections therefor) which service his Unit, and further, the Owner shall repair any glass surfaces of a Unit which are damaged within seven (7) days of such damage. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his Condominium Unit. In the event an Owner fails to maintain his Unit as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify such Owner of the work required and request that it be done within thirty (30) days from the giving of such notice. In the event an Owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner and collect and enforce said Assessment as provided in Article 4 above.

10.6 Entry for Repairs

The Board or its agents may enter any Unit when necessary in connection with any repairs, maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made upon reasonable notice, unless it would be impractical to give notice in an emergency, and with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the Association. No Owner shall do any act or create any obstruction which would unreasonably interfere with the right or ability of the Association to perform any of its obligations or exercise any of its rights under this Declaration.

10.7 Insurance, Damage or Destruction10.7.1 Reconstruction by Unit Owners

Subject to other provisions of this Declaration, in the event of damage to or destruction of any part of a Unit, the Owner shall reconstruct the same as soon as reasonably practicable and substantially in accordance with the original plans and specifications therefor. Each Owner shall have an easement of reasonable access into any adjacent Unit for purposes of repair or reconstruction of his Unit as provided in this Subarticle.

10.7.2 Association Liability Insurance

The Association shall obtain and continue in effect comprehensive public liability insurance insuring the Association, the Declarant, the agents and employees of each and the Owners and their respective family members, guests and invitees against any liability incident to the ownership or use of the Common Area and facilities in the Recreational Common Area, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of the negligence of other Owners or the Association. Such insurance shall be in amounts deemed appropriate by the Board but, in any event, shall be in amounts which satisfy FHLMC or FNMA requirements as amended from time to time.

10.7.3 Master Hazard Insurance

Additionally, the Association shall obtain and continue in effect a master or blanket policy of multi-peril insurance on the Project, providing at a minimum fire and extended coverage and all other coverage in the kinds and amounts required by FHLMC and FNMA regulations as amended from time to time, said coverage to be obtained on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all improvements in the Project. Such policy shall contain extended

coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, stipulated amount clause and a determinable cash adjustment clause or a similar clause to permit cash settlement covering the full value of the improvements in the Project in the event of destruction and a decision not to rebuild pursuant to this Declaration. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance on the Project shall be maintained in an amount equal to the aggregate outstanding principal balance of all Mortgage loans on the individual Condominium Units or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. Such policies shall be in form and amount as determined by the Board but, in any event, shall always satisfy FHLMC and FNMA requirements as amended from time to time, shall name as insured the Association, the Owners, Declarant (so long as Declarant is an Owner of any Condominium Units) and all Mortgagees as their respective interests may appear, and shall provide that any proceeds be paid to the Association for the use and benefit of the Owners and Mortgagees as their interests may appear. Such policy shall not be required to insure the personal property within any individual Unit, which insurance shall be the responsibility and risk of the Unit Owners.

10.7.4 Additional Association Insurance

The Association may purchase such other insurance as it may deem necessary, including without limitation plate-glass, workmen's compensation, directors liability and errors and omissions insurance, and shall purchase fidelity coverage against dishonest acts by any directors, managers, trustees, employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association. The fidelity insurance shall name the Association as the insured and shall provide coverage in an amount not less than one and one-half (1-1/2) times the Association's estimated annual operating expenses and reserves.

10.7.5 Choice of Carriers; Insurance Premiums

The insurance policies required under this Subarticle 10.7 shall be acquired from carriers meeting the qualifications specified by the FHLMC and FNMA from time to time. Insurance premiums shall be a Common Expense to be included in the Assessments levied by the Association, provided that the Association shall have the right, but not the obligation, to specially assess each Condominium Unit and the Owner thereof for all premiums for policies paid for by the Association attributable to custom-built items, additions or improvements in or to the Condominium Unit or any part thereof. The acquisition of insurance by the Association shall be without prejudice to the right of any Condominium Unit Owner to obtain additional individual insurance.

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Neither the Declarant, the Association nor any officer or director thereof shall be liable to any Owner or other party if any risk or hazard is not covered by insurance or the amount is inadequate. Each Owner is responsible for ascertaining the Association's coverage and for procuring such additional coverage as such Owner deems necessary. First Mortgagees may pay overdue premiums and may secure new insurance coverage upon the lapse of any policy with respect to any insurance required to be maintained by the Association or by any Owner under this Declaration, and any First Mortgagee making such an expenditure shall be entitled to immediate reimbursement from the Association or Owner on whose behalf the expenditure was made.

10.7.6 Proceeds from Insurance

If any of the Project improvements are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with original plans and specifications therefor. Items added by Owners to their Units after the initial construction thereof shall be rebuilt or replaced at the expense of the Owners or their insurers to the extent insurance proceeds payable to the Association are insufficient therefor. Any excess insurance proceeds shall be deposited to the general funds of the Association. In the event the proceeds of the Association's insurance policy are insufficient to rebuild or repair the damaged Project improvements (not including custom-built items for which individual Owners are responsible), then the Association may use funds from its general account or, if necessary, from levying a special Assessment on all Unit Owners to restore or rebuild said improvements. The Association's use of funds from its general account or levy of a special Assessment shall not constitute a waiver of the Association's or any Owner's right to institute any legal proceeding or suit against the person or persons responsible, purposely or negligently, for the damage.

10.7.7 Total Destruction

In the event the Property subject to this Declaration is totally or substantially damaged or destroyed, the First Mortgagees shall receive timely notice thereof. The repair, reconstruction or disposition of the Property and insurance proceeds shall be as provided by an agreement approved by not less than fifty-one percent (51%) of the votes of each class of membership and not less than seventy-five percent (75%) of all First Mortgagees [based on one (1) vote for each Mortgage held].

10.7.8 Personal Liability Insurance

In addition to the master policies which the Association shall carry, the Board shall have the power to require each Condominium Unit Owner, at his expense, to carry

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personal liability insurance covering damage to property or injury to the person of others within the Project resulting from negligence of the Owner or his agents in an amount up to Three Hundred Thousand Dollars (\$300,000.00) for each occurrence.

10.7.9 Waiver of Subrogation; Notice of Cancellation

All property and liability insurance carried by the Association or the Owners shall contain provisions whereby the insurer waives rights of subrogation as to the Association, officers, directors, Members and their guests, agents and employees. All insurance carried by the Association shall contain a provision requiring the insurer to notify First Mortgagees requesting notice of cancellation at least thirty (30) days in advance of the effective date of any reduction in or cancellation of the policy.

10.7.10 Additional Insurance Requirements

It is the intent of Subarticle 10.7 of this Declaration to generally set forth the insurance requirements for the Project which are, at all times, to comply with FHLMC and FNMA requirements. Because FHLMC and FNMA Project insurance requirements are very lengthy and subject to change from time to time, it is impractical to set forth all of those requirements herein. Therefore, the Association, Board and Owners shall at all times carry, maintain in good standing and pay for all hazard, liability, fidelity and other insurance policies, binders and bonds required by the FHLMC and FNMA, and FHLMC and FNMA regulations or guidelines as such requirements change from time to time, including but not limited to all insurance and bonds required by Section 3.203 of the FHLMC Sellers' Guide Conventional Mortgages, and Sections 315, 803.07P and/or 803.08P of the FNMA Conventional Home Mortgage Selling Contract Supplement, and shall provide satisfactory evidence thereof promptly to any First Mortgagee or insurer or guarantor of any First Mortgage which requests such evidence. All such policies, binders and bonds shall comply with and be consistent in form and substance with all such FHLMC and FNMA requirements as they change from time to time, and shall include all mortgage clauses and endorsements of any kind or nature required by the FHLMC and FNMA, and FHLMC and FNMA regulations or guidelines as such requirements change from time to time.

10.8 Condemnation

Upon receipt of notice of intention or notice of proceedings whereby all or any part of the Project is to be taken by any governmental body by exercise of the power of condemnation or eminent domain, all Owners and First Mortgagees shall be immediately notified by the Association thereof. The Association shall represent the Owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of any part of the

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Project, and every Owner appoints the Association his/her attorney-in-fact for this purpose. The entire award made as compensation for such taking, including but not limited to any amount awarded as severance damages, or the entire amount received and paid in anticipation and settlement for such taking, after deducting therefrom, in each case, reasonable and necessary costs and expenses, including but not limited to attorneys' fees, appraisers' fees and court costs (which net amount shall hereinafter be referred to as the "Award"), shall be paid to the Association as trustee for the use and benefit of the Owners and their First Mortgagees as their interests may appear. If the portion of the Project taken or conveyed does not include all or any part of a Condominium Building, the Association shall, as it is practicable, cause the Award to be utilized for the purpose of repairing and restoring the Project, including, if the Association deems it necessary or desirable, the replacement of any improvements so taken or conveyed. If the portion of the Project taken or conveyed is comprised of or includes all or any part of a Condominium Building, the Association, after its receipt of notice of the final amount of the Award, shall call a special meeting of the Members of the Association, with notice thereof to all First Mortgagees, to determine whether the parts of the Project taken shall be restored, reconstituted or replaced and, if so, in what manner. These matters, together with the use, disposition and distribution of the Award, shall be as provided by an agreement approved by not less than fifty-one percent (51%) of the votes of each class of membership and not less than fifty-one percent (51%) of all First Mortgagees [based on one (1) vote for each First Mortgage held]. The Owners and First Mortgagees, in determining the disposition of the Award, shall give careful consideration to the complete loss of value (measured by fair market value prior to the taking) by Owners whose Units will be vacated by the taking and not replaced pursuant to the agreement as provided above. Condominium Unit Owners whose Units will be taken and not replaced shall, as part of the implementation of any agreement described above, be divested of all interest in the Project, and all remaining Condominium Unit Owners will automatically have their Common Interests in the reduced Project proportionately increased. In the event any Condominium Unit Owner disagrees with the proposed allocation, he/she may have the matter submitted to arbitration under the rules of the American Arbitration Association.

10.9 Limitation of Restrictions on Declarant; Additional Restrictions on Declarant

Declarant is undertaking the work of construction of the Units and incidental improvements upon the Property. The completion of that work and the sale, rental and other disposal of the Condominium Units are essential to the establishment and welfare of the Project as a residential community. In order that said work may be completed and said Project be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

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10.9.1 Prevent Declarant, its contractors or subcontractors from doing on the Project or any Unit whatever is reasonably necessary or advisable in connection with the completion of the work;

10.9.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Project such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Project as a residential community and disposing of the same in parcels by sale, lease or otherwise;

10.9.3 Prevent Declarant from conducting on any part of the Project its business of completing the work and of establishing a plan of Condominium Unit ownership and of disposing of said Project in Condominium Units by sale, lease or otherwise; or

10.9.4 Prevent Declarant from maintaining such sign or signs on any portion of the Project as may be necessary for the sale, lease or disposition thereof.

So long as Declarant or its successors or assigns owns one or more of the Condominium Units established and described in this Declaration and, except as otherwise specifically provided herein, Declarant and its successors or assigns shall be subject to the provisions of this Declaration. Declarant shall not, and shall not have authority or power to, bind the Association prior to termination of Class B Membership, either directly or indirectly, to contracts or leases (including management contracts) unless the Association is provided with a right of termination of any such contract or lease, without cause, which is exercisable without penalty at any time after such termination upon not more than ninety (90) days' notice to the other party thereto.

10.10 Termination of Any Responsibility of Declarant

In the event Declarant shall convey all of its right, title and interest in and to the Project to any partnership(s), individual(s) or corporation(s), then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership(s), individual(s) or corporation(s) shall be obligated to perform all such duties and obligations of the Declarant.

10.11 Owner's Compliance

Each Owner, tenant or occupant of a Unit shall comply with the provisions of the Project Documents and all decisions and resolutions of the Association or its duly authorized representative(s), and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due, for damages (including costs and attorneys' fees) and/or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance

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with the voting percentages established in this Declaration or in the Bylaws shall be deemed to be binding on all Condominium Unit Owners, their successors and assigns.

10.12 Conflict of Project Documents

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail. Thereafter, priority shall be given to Project Documents in the following order: Condominium Plan, Map, Articles, Bylaws and rules and regulations of the Association.

10.13 Termination of Horizontal Property Regime

This Horizontal Property Regime may be terminated by the agreement of all of the Owners and First Mortgagees pursuant to Arizona Revised Statutes, Section 33-556, any amendment thereto or as provided herein. After termination of the Horizontal Property Regime, the Owners shall own the Project and all assets, and their respective First Mortgagees and lienors shall have First Mortgages and liens upon the respective undivided shares of the Owners. Such undivided shares of the Owners shall be the same as the undivided shares in the Common Area appurtenant to the Owners' Condominium Units prior to the termination (unless otherwise expressly set forth herein).

10.14 Persons Entitled to Enforce Declaration

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court, provided however, that an individual Owner shall have no right to enforce the collection of any Assessment levied against any other Owner under Article 4 above. Failure by any such Person to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

10.15 Remedies for Violation of Declaration

The following provisions are in addition to and not in lieu of any other terms and conditions contained in the Declaration relating to remedies, including but not limited to those contained in Subarticle 4.9.

10.15.1 Violation of any of the covenants, conditions or restrictions, the breach of any of the covenants or agreements contained herein or the breach of any rules and regulations promulgated by the Board, whether by an Owner or occupant of any Unit, shall enable the Association, acting through the Board or an authorized agent, to enter the Unit as to which said violation or breach may exist and summarily enforce such covenants, conditions, restrictions, agreements, rules and regulations and to abate and remove the thing or condition which

may exist thereon contrary to the provisions hereof, at the sole expense of the Owner of said Unit, without being deemed guilty of having trespassed in any manner, provided, however, that an appropriate court order shall be required before any items of construction can be removed or altered.

10.15.2 In the event of any default by an Owner or occupant under the provisions of this Declaration, the Articles, the Bylaws or the rules and regulations of the Association, the Association, its successors and assigns, acting through the Board or an authorized agent, shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, the Bylaws and said rules and regulations or which may be available at law or in equity, including but not limited to an action for the appointment of a receiver for the Condominium Unit without regard to the value of such Condominium Unit or the solvency of such Owner, or for damages, injunction, specific performance or for a judgment for payment of money and collection thereof. Nothing contained in this Declaration shall preclude the Association, its agents, the Board, Declarant, an aggrieved Owner, a First Mortgagee or other Person having an interest in the Project from exercising any available remedy at law or in equity. All costs and attorneys' fees incurred by the Association in enforcing compliance with this Declaration (whether or not a lawsuit or other legal action is instituted or commenced) or in connection with any legal action or proceedings in connection with any default under this Declaration by an Owner or an occupant of any Condominium Unit and all damages, liquidated or otherwise, together with interest as provided in Subarticle 4.1, shall be charged to and paid by such defaulting Owner as provided in Subarticle 4.1. The Association, acting through the Board or its authorized agent, shall have the authority to correct any default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and paid by such defaulting Owner, and such charges shall be part of and be secured by the lien against the defaulting Owner's Condominium Unit as provided in Subarticle 4.1. Any amounts charged to an Owner of a Condominium Unit pursuant to this Subarticle 10.15 or Subarticle 4.1 or 4.9 shall be immediately due and payable upon notice to the Owner unless a specific due date is established therefor pursuant to this Declaration.

10.15.3 Anything to the contrary herein notwithstanding, any breach of any of the covenants, conditions, restrictions, reservations and servitudes provided for in this Declaration shall not defeat or adversely affect the lien of any First Mortgagee upon any Condominium Unit but, except as herein specifically provided, each and all of said covenants, conditions, restrictions, reservations and servitudes shall be binding upon and effective against any lessee or Owner of a Condominium Unit whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

83 174334

10.16 Waiver, Remedies Cumulative

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

10.17 Judicial Proceedings

All Owners agree that any matter arising under this Declaration may be finally adjudged or determined in any court or courts of the State of Arizona or of the United States of America having jurisdiction in the State of Arizona, and such Owners hereby submit generally and unconditionally to the jurisdiction of such courts and of any of them in respect to any such matter, provided however, as to those matters to be submitted to arbitration pursuant to any provision hereof, such arbitration provisions shall be controlling and prevail. For the purpose of instituting or defending any action with respect to the Common Area, or with respect to any matter affecting the Owners with respect to the Common Area, and further in connection with enforcing this Declaration, the Articles, the Bylaws and any rules and regulations adopted pursuant to this Declaration, the Articles or the Bylaws, or in any other instance where the Board and/or the Members of the Association deem it is necessary for the best interest of the Project as a whole, the Association, acting by and through its Board, shall be deemed the real party in interest and is hereby authorized to commence and prosecute any such proceedings or to defend any such action. Nothing contained in this Subarticle 10.17 shall be deemed or construed to impose upon the Association, its Members or the Board any liabilities or obligations nor grant to any third party or parties any rights that any of said above-named parties would not otherwise have if this article were not contained herein.

10.18 Governing Law

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

10.19 FHA/VA Approval

83 174934

As long as there is Class 8 Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, amendment of this Declaration and withdrawal or deannexation of any property from this Declaration.

End of Article 10 Entitled
General Provisions

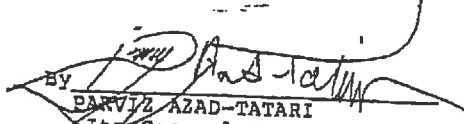
83 174934

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 21st day of April, 1983.

DECLARANT:


PARK FIFTH AVENUE LIMITED
PARTNERSHIP, an Arizona limited
partnership

By Uniwest, Ltd., a California
limited partnership, Its
General Partner

By 
PARVIZ AZAD-TATARI
Its General Partner

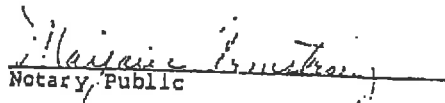
By 
NORMAN BANCHIK
Its General Partner

By 
L. EDMUND CATES
Its General Partner

By 
JAMES E. RICHARDSON
Its General Partner

STATE OF Arizona)
County of Maricopa) ss.

On April 21st, 1983, before me, the undersigned notary public in and for said county and state, appeared PARVIZ AZAD-TATARI, the General Partner of Uniwest, Ltd., a California limited partnership, as a general partner of PARK FIFTH AVENUE LIMITED PARTNERSHIP, an Arizona limited partnership.


Notary Public

My Commission Expires:

October 8, 1985

STATE OF Arizona

)
) ss.
)

83 174934

County of Maricopa

On April 21, 1983, 1983, before me, the undersigned
notary public in and for said county and state, appeared NORMAN
BANCHIK, as the General Partner of PARK FIFTH AVENUE LIMITED
PARTNERSHIP, an Arizona limited partnership.

William J. [Signature]
Notary Public

My Commission Expires:

October 8, 1985

STATE OF Arizona

)
) ss.
)

County of Maricopa

On April 21st, 1983, 1983, before me, the undersigned
notary public in and for said county and state, appeared
L. EDMUND CATES, as the General Partner of PARK FIFTH AVENUE
LIMITED PARTNERSHIP, an Arizona limited partnership.

William J. [Signature]
Notary Public

My Commission Expires:

October 8, 1985

STATE OF Arizona

)
) ss.
)

County of Maricopa

On April 21st, 1983, 1983, before me, the undersigned
notary public in and for said county and state, appeared JAMES E.
RICHARDSON, as the General Partner of PARK FIFTH AVENUE LIMITED
PARTNERSHIP, an Arizona limited partnership.

William J. [Signature]
Notary Public

My Commission Expires:

October 8, 1985

EXHIBIT A

83 174934

A portion of Woolf Manor, recorded in Book 52, Page 19, Maricopa County Records, and located in the SW $\frac{1}{4}$ of Section 20, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, and more particularly described as follows:

Commencing at the Southeast Corner of the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 20; thence North 89° 56' 50" West for a distance of 288.23 feet to the Southwest Corner of said Woolf Manor; thence North 0° 14' 34" East for a distance of 30.00 feet to the True Point of Beginning; thence continuing North 0° 14' 34" East for a distance of 597.27 feet to the Northwest Corner of said Woolf Manor; thence East, along the North line of said Woolf Manor for a distance of 273.09 feet to the beginning of a tangent curve to the right having a radius of 20.00 feet; thence Southeasterly along the arc of said curve through a central angle of 90° 09' 45" and a distance of 31.47 feet; thence South 0° 09' 45" West along a line which is parallel with and 25.00 feet West of the East line of said Woolf Manor for a distance of 557.52 feet to the beginning of a tangent curve to the right having a radius of 20.00 feet; thence Southwesterly along the arc of said curve through a central angle of 89° 53' 25" and a distance of 31.38 feet; thence North 89° 56' 50" West for a distance of 274.03 feet to the True Point of Beginning.

Also known as Lot 1, Park Fifth Avenue, according to Book 247 of Maps, Page 46, Maricopa County, Arizona Recorder.

EXHIBIT B

83 174934

Collar, Williams & White Engineering, Inc.

DONALD H. COLLAR, PE
President
ROBERT E. WAGONER, PE, RLS
Vice President

Consulting Engineers
2722 NORTH 70TH STREET
SCOTTSDALE, ARIZONA 85251

GEORGE J. TERRY, PE
ROBERT E. WAGONER, PE
WM. ROSS NELSON, RLS
GERALD BASALUSSEN, RLS
DAVID M. HORNOR, RLS
JAY N. VAUGHN, RLS

Legal Description

For

PARK FIFTH AVENUE CONDOMINIUMS

April 20, 1983

PHASE 1

CWW No. #820217

A portion of WOOLF MANOR, recorded in Book 52, page 19, Maricopa County Records, and located in the SW $\frac{1}{4}$ of Section 20, T. 2 N., R. 3 E., of the G. & S. R. B. & M., Maricopa County, Arizona, and more particularly described as follows:

Commencing at the Southeast Corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said

Section 20;

THENCE N 89°56'50" W for a distance of 288.23 feet to the Southwest Corner of said WOOLF MANOR;

THENCE N 0°14'34" E for a distance of 30.00 feet to a point on the Northerly Right-of-Way line of Glenrosa Street;

THENCE S 89°56'50" E along said Northerly Right-of-Way line for a distance of 128.00 feet to the true point of beginning;

THENCE N 0°14'34" E for a distance of 110.00 feet;

THENCE N 89°45'26" W for a distance of 27.00 feet;

THENCE N 0°14'34" E for a distance of 60.00 feet;

THENCE S 89°45'26" E for a distance of 60.00 feet;

THENCE N 0°14'34" E for a distance of 91.42 feet;

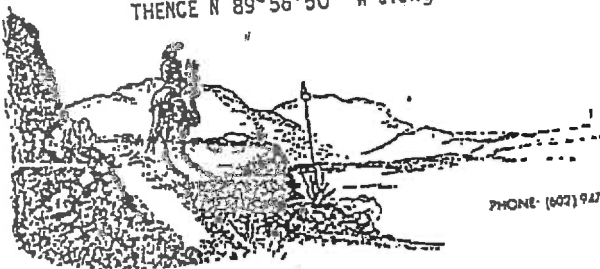
THENCE S 89°45'26" E for a distance of 132.62 feet to a point in the Westerly Right-of-Way line of Fifth Avenue;

THENCE S 0°09'45" W along said Right-of-Way line for a distance of 240.90 feet to the beginning of a curve to the right having a radius of 20.00 feet;

THENCE Southwesterly along the arc of said curve through a central angle of 89°53'25" and a distance of 31.38 feet;

THENCE N 89°56'50" W along the Northerly Right-of-Way line of Glenrosa Street

continued.....



PHONE: (602) 947-3433

83 174934

Legal Description (cont'd.)
April 20, 1983
PARK FIFTH AVENUE CONDOMINIUMS
PHASE 1
CWW No. #820217
Page Two

for a distance of 146.03 feet to the TRUE POINT OF BEGINNING.

Containing 0.960 acres

Each Condominium Unit in Phase 1 will have a Common Interest as set forth in the following chart, according to the Unit Type of the Condominium Unit:

UNIT TYPE	COMMON INTEREST
1	2.176%
2	2.474%
3	3.266%
4	3.584%
5	4.290%

EXHIBIT C

83 174934

Gollar, Williams & White Engineering, Inc.

DONALD H. GOLLAR, P.E.
President
ROBERT R. WAGONER, P.E., P.L.S.
Vice President

Consulting Engineers
2922 NORTH 70TH STREET
SCOTTSDALE, ARIZONA 85251

GEORGE J. TILLY, P.E.
ROBERT L. MOHNING, P.E.
WILLIAM ROSS M'ISSON, R.L.S.
GERALD RASMUSSEN, R.L.S.
DAVID H. KORNOR, R.L.S.
JAY N. VAUGHN, R.L.S.

Legal Description

For

PARK FIFTH AVENUE CONDOMINIUMS

CWW No. #820217

PHASE 2

April 20, 1983

A portion of WOLF MANOR, recorded in Book 52, page 19, Maricopa County Records, and located in the SW $\frac{1}{4}$ of Section 20, T. 2 N., R. 3 E., of the G. & S. R. B. & M., Maricopa County, Arizona, and more particularly described as follows:

Commencing at the Southeast Corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 20;

THENCE N 89°56'50" W for a distance of 288.23 feet to the Southwest Corner of said WOLF MANOR;

THENCE N 0°14'34" E for a distance of 30.00 feet to the true point of beginning;

THENCE continuing North 0°14'34" East for a distance of 257.85 feet;

THENCE S 89°45'26" E for a distance of 161.00 feet;

THENCE S 0°14'34" W for a distance of 87.42 feet;

THENCE N 89°45'26" W for a distance of 60.00 feet;

THENCE S 0°14'34" W for a distance of 60.00 feet;

THENCE S 89°45'26" E for a distance of 27.00 feet;

THENCE S 0°14'34" W for a distance of 110.00;

THENCE N 89°56'50" W for a distance of 128.00 feet to the TRUE POINT OF BEGINNING.

Containing 0.786 acres

Continued.....



PHONE (602) 947-5433

83 174934

Legal Description (cont'd.)
April 20, 1983
PARK FIFTH AVENUE CONDOMINIUMS
PHASE 2
CWW No. #820217
Page Two

Each Condominium Unit in the Project (Phases 1 and 2)
will have a Common Interest as set forth in the following chart,
according to the Unit Type of the Condominium Unit:

UNIT TYPE	COMMON INTEREST
1	1.025%
2	1.165%
3	1.538%
4	1.687%
5	2.020%

EXHIBIT C

83 174934

Collar, Williams & White Engineering, Inc.

DONALD M. COLLAR, P.E.
President
ROBERT D. WAGONER, P.E., R.L.S.
Vice President

Consulting Engineers
2922 NORTH 70TH STREET
SCOTTSDALE, ARIZONA 85251

GEORGE J. TERT, P.E.
ROBERT E. MORNING, P.E.
WILLIAM E. HANSEN, R.L.S.
GERALD RASMUSSEN, R.L.S.
DAVID H. MORROW, R.L.S.
JAY N. VAUGHAN, R.L.S.

Legal Description

For

PARK FIFTH AVENUE CONDOMINIUMS

CWW No. #820217

PHASE 3

April 20, 1983

A portion of WOOLF MANOR, recorded in Book 52, page 19, Maricopa County Records, and located in the SW $\frac{1}{4}$ of Section 20, T. 2 N., R. 3 E. of the G. & S. R. B. & M., Maricopa County, Arizona, and more particularly described as follows:

Commencing at the Southeast Corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 20;

THENCE N 89°56'50" W for a distance of 288.23 feet to the Southwest Corner of said WOOLF MANOR;

THENCE N 0°14'34" E for a distance of 287.85 feet to the true point of beginning;

THENCE continuing N 0°14'34" E for a distance of 214.42 feet;

THENCE S 89°45'26" E for a distance of 184.00 feet;

THENCE N 0°14'34" E for a distance of 26.58 feet;

THENCE S 89°45'26" E for a distance of 109.29 feet to a point in the Westerly Right-of-Way line of Fifth Avenue;

THENCE S 0°09'45" W along said Westerly Right-of-Way for a distance of 237.01 feet;

THENCE N 89°45'26" W for a distance of 132.62 feet;

THENCE S 0°14'34" W for a distance of 4.00 feet;

THENCE N 89°45'26" W for a distance of 161.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.499 acres

Continued.....



PHONE (602) 947-5413

83 174934

Legal Description (cont'd.)
April 20, 1983
PARK FIFTH AVENUE CONDOMINIUMS
PHASE 3
CWW No. 820217
Page Two

Each Condominium Unit in the Project (Phases 1, 2 and 3) will have a Common Interest as set forth in the following chart, according to the Unit Type of the Condominium Unit:

UNIT TYPE	COMMON INTEREST
1	0.605Z
2	0.688Z
3	0.908Z
4	0.996Z
5	1.193Z

EXHIBIT C

Collar, Williams & White Engineering, Inc.

83 174934

DONALD H. COLLAR PE
President
ROBERT B. WAGONER PE, RLS
Vice President

Consulting Engineers
2922 NORTH 70TH STREET
SCOTTSDALE, ARIZONA 85251

GEORGE J. TIPPY, PE
ROBERT L. MOHNING, PE
WM. ROSS NELSON, RLS
GERALD RASMUSSEN, RLS
DAVID H. HORMOR, RLS
JAY N. VAUGHN, RLS

Legal Description

For

PARK FIFTH AVENUE CONDOMINIUMS

CWW No. #820217

PHASE 4

April 20, 1983

A portion of WOOLF MANOR, recorded in Book 52, page 19, Maricopa County Records, and located in the SW $\frac{1}{4}$ of Section 20, T. 2 N., R. 3 E. of the G. & S. R. B. & M., Maricopa County, Arizona, and more particularly described as follows:

Commencing at the Southeast Corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 20;

THENCE N 89°56'50" W for a distance of 288.23 feet to the Southwest Corner of said WOOLF MANOR;

THENCE N 0°14'34" E for a distance of 502.27 feet to the true point of beginning;

THENCE continuing N 0°14'34" E for a distance of 125.00 feet to a point in the Southerly Right-of-Way line of Turney Avenue;

THENCE East along said Southerly Right-of-Way for a distance of 273.09 feet to the beginning of a curve to the right having a radius of 20.00 feet;

THENCE Southeasterly along the arc of said curve through a central angle of 90°09'45" and a distance of 31.47 feet;

THENCE S 0°09'45" W for a distance of 79.67 feet;

THENCE N 89°45'26" W for a distance of 109.29 feet;

THENCE S 0°14'34" W for a distance of 26.58 feet;

THENCE N 89°45'26" W for a distance of 184.00 feet to the TRUE POINT OF BEGINNING.

Containing 0.777 acres

Continued.....



PHONE (602) 947-5433

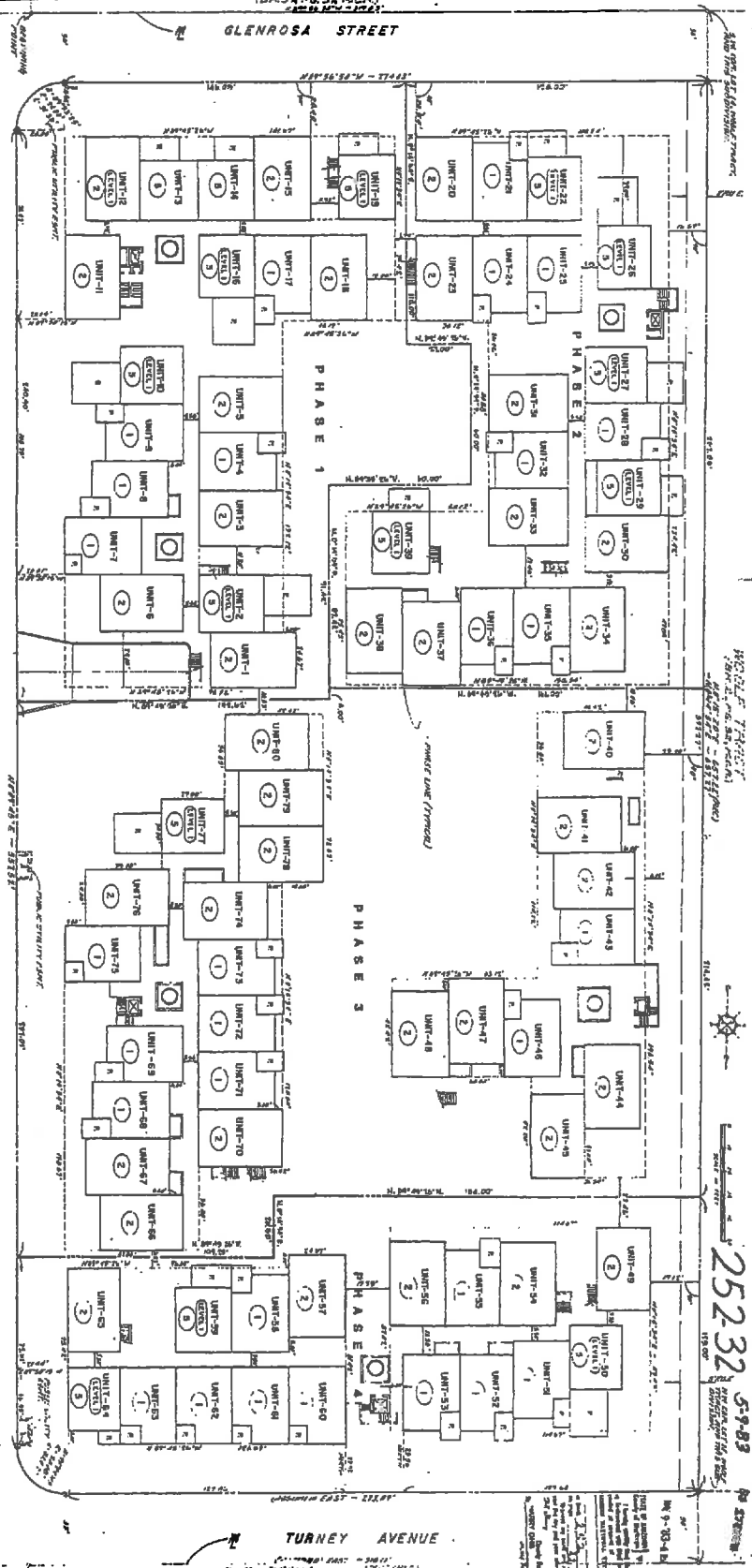
83 174934

Legal Description (cont'd.)
April 20, 1983
PARK FIFTH AVENUE CONDOMINIUMS
PHASE 4
CWW No. #820217
Page Two

Each Condominium Unit in the Project (Phases 1, 2, 3 and 4) will have a Common Interest as set forth in the following chart, according to the Unit Type of the Condominium Unit:

UNIT TYPE	COMMON INTEREST
1	0.473%
2	0.538%
3	0.710%
4	0.779%
5	0.933%

GLENROSA STREET



LEGAL DESCRIPTION

[illegible]

LEGENDE

THESE ARE THE

Indicates corner of block fifth avenue.

Indicates boundary of Houston's property. Virginia

h. Indicators of the Area

9. *Industrial Railway Areas*

3 Indicates Type of dwelling
LEVEL-1 Indicates Level of stress.

BENCH MARK

All references to particular annotations in this document are based on the
 5000s top or middle hole of the instructions of you ARE. I WILL BE.
 HERE VARIOUS = 1118.01 (Friday of Phoenix Autumn 2000)

NOTES

[illegible]

CERTIFICATION

THE above-named road was constructed by the American Society of Civil Engineers, and the road was made under my direct supervision. The road was made under my direct supervision of the work of the American Society of Civil Engineers, and the road was made under my direct supervision of the work of the American Society of Civil Engineers.

$$\frac{h \cdot \delta y}{A \cdot \delta x}$$

PARK FIFTH AVENUE CONDOMINIUMS

HORIZONTAL PROPERTY REGIME

EXHIBIT A
FIRST FLOOR LEVEL
SHEET 1 OF 7

Unofficial
Documents

16:40

NG

STEWART TITLE & TRUST OF PHOENIX

WHEN RECORDED, RETURN TO:

Gary A. Drummond, Esq.

Sallquist & Drummond, P.C.

2525 E. Arizona Biltmore Circle

Suite 117

Phoenix, Arizona 85016

119

FIRST AMENDMENT TO
DECLARATION OF HORIZONTAL PROPERTY
REGIME AND COVENANTS, CONDITIONS AND RESTRICTIONS
PARK FIFTH AVENUE CONDOMINIUMS

01320023

This First Amendment to Declaration of Horizontal Property Regime and Covenants, Conditions and Restrictions Park Fifth Avenue Condominiums is made this 8 day of March, 2001, by 32 PARK, L.L.C., an Arizona limited liability company ("Declarant").

I. Recitals

- 1.1 Declarant is the owner of certain real property located in Phoenix, Maricopa County, Arizona more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein ("Declarant Property").
- 1.2 The Declarant Property is a portion of the Property which is the subject of that Declaration of Horizontal Property Regime and Covenants, Conditions and Restrictions Park Fifth Avenue Condominiums, dated April 21, 1983, as recorded May 9, 1983, as Document No. 83 174934, records of Maricopa County, Arizona ("Declaration").
- 1.3 Declarant is the successor-in-interest to Park Fifth Avenue Limited Partnership, an Arizona limited partnership, the original Declarant under the Declaration.
- 1.4 This Amendment requires only the consent of the Declarant since Declarant holds more than seventy-five percent (75%) of the total voting power of the Association.
- 1.5 Declarant desires to amend the Declaration with respect to the entire Property on the terms and conditions set forth herein.

II. Terms and Conditions

NOW, THEREFORE, Declarant hereby declares, covenants and agrees, for itself and its successors and assigns, and for the benefit of all owners of any portion of the Property the following:

- 2.1 Association. Subarticle 1.3 of the Declaration shall be amended to read as follows:

1.3 "Association" shall mean and refer to FIFTH AVENUE CONDOMINIUM ASSOCIATION, an Arizona nonprofit corporation, the Members of which shall be Owners of Condominium Units in the Project.

- 2.2 Recreational Common Area. Subarticle 2.2.3 of the Declaration shall be amended to read as follows:

2.2.3 Recreational Common Area.

That portion of the Property designated and intended to be used for common recreational purposes by the residents of the Project is "Recreational Common Area". The Recreational Common Area shall be operated and maintained by the Association for the use and benefit of Owners of Condominium Units in the Project, subject to reasonable rules and regulations enacted ^{Unofficial Document} according to the Bylaws. Declarant has constructed and completed Recreational Common Area in Phase three prior to the conveyance of the first Condominium Unit therein which will bring that Phase within the provisions of this Declaration. The Owners of the Condominium Units shall have a non-exclusive easement to use the Recreational Common Area located in Phase three. In determining the amount of the annual Assessment against each Condominium Unit, the Board shall include any fees charged by the Declarant for the non-exclusive easement to use the Recreational Common Area located in Phase three. Upon conveyance of the first Condominium Unit in Phase three, the Recreational Common Area located in Phase three shall be owned by all Condominium Unit Owners as tenants in common and the non-exclusive easement to use the Recreational Common Area located in Phase three shall terminate.

- 2.3 Annual Assessments. Subarticle 4.3 of the Declaration shall be amended to read as follows:

4.3 Annual Assessments

All annual Assessments shall be payable in twelve (12) equal monthly installments. Commencing with the calendar year in which the close of escrow on the sale of the first Condominium Unit located in Phase one of the Project occurs, the monthly installments of the annual Assessment per Condominium Unit shall be as follows:

<u>UNIT TYPE</u>	<u>ASSESSMENT AMOUNT</u>
1	\$128.00
2	\$135.00

3	\$143.00
4	\$158.00
5	\$175.00

For each subsequent calendar year, the Board shall determine and fix the amount of the monthly installment of the Annual assessment against each Condominium Unit, including those owed by Declarant, and shall notify the Owner of each Condominium Unit in writing of such amount. Notwithstanding the foregoing, the annual Assessment shall not commence, and the monthly installment thereof shall not be payable, as to a Condominium Unit in any Phase of the Project except as provided in Subarticle 4.7

If the Board determines during any calendar year that its funds budgeted or available ^{Unofficial Document} endar year are, or will, become inadequate to meeting all Common Expenses for any reason, the Board may increase the amount of the annual Assessment for the remaining balance of that calendar year (subject to any statutory limitations) and the revised monthly installment of the annual Assessment shall commence on the date designated by the Board.

The Board shall notify the Owner of each Condominium Unit in writing as to the amount of the monthly installment of the annual Assessment for each calendar year (excluding the calendar year in which the close of escrow on the sale of the first Condominium Unit located in Phase one of the Project occurs), or any revision thereof pursuant to this Subarticle 4.3, not less than thirty (30) days prior to the date that such revised monthly installment is to be paid.

The Condominium Units in the Project vary substantially in size and the annual Assessments for the first year set forth above reflect this fact. All annual Assessments against the Condominium Units shall be levied so as to maintain the proportionate relationship of the annual Assessments set forth above and this requirement shall apply whether Assessments are fixed annually by the Board or are increased pursuant to the provisions set forth above.

Declarant shall establish and contribute to a segregated fund to be used as a working capital fund for the Association an amount equal to twice the monthly installment of the annual Assessments for each Condominium Unit in a Phase which becomes subject to this Declaration. Such amount shall be contributed for all Condominium Units located in a Phase which becomes subject to this Declaration within sixty (60) days after the closing of the sale of the first Condominium Unit in such Phase;

provided, however, Declarant may be reimbursed for the amount contributed for each Condominium Unit by the buyer thereof at the time of the closing of the sale of the Condominium Unit.

- 2.4 Date of Commencement of Annual Assessment; Due Dates. Subarticle 4.7 of the Declaration shall be amended to read as follows:

4.7 Date of Commencement of Annual Assessment; Due Dates

The regular annual Assessments provided for herein shall commence as to each Condominium Unit located in Phase one of the Project on the first day of the month following the close of escrow on the sale of the first Condominium Unit. Regular annual Assessments shall commence as to all Condominium Units in any subsequent Phase which becomes subject to this Declaration under Subarticles 2.5 or 2.6 on the first day of the month following the effective date that Phase becomes subject to this Declaration. Due dates of Assessments shall be established by ^{the Declaration} ~~the Declaration~~ and notice shall be given to each Condominium Unit Owner at least thirty (30) days prior to any due date, provided that if Assessments are to be due on a monthly basis, no notice shall be required other than an annual notice setting forth the amount of the monthly Assessment and the day of each month on which each Assessment is due.

- 2.5 Defined Terms. All capitalized terms used herein but not defined shall have the meanings assigned thereto in the Declaration.
- 2.6 Conflict. In the event of any conflict between the terms and provisions of this First Amendment and the Declaration, the terms and provisions of this First Amendment shall govern and control. Except as otherwise provided in this First Amendment to the contrary, the terms and provisions of the Declaration shall control.

IN WITNESS WHEREOF, Declarant has executed this First Amendment on the day and year first set forth above.

32 PARK, L.L.C., an Arizona limited liability company

By: 

Jim A. McClurg

Its: Manager

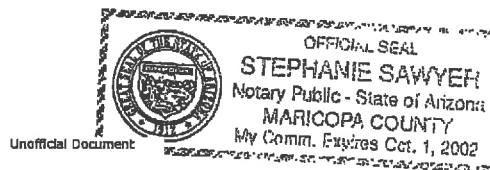
STATE OF ARIZONA)
) ss.
 County of Maricopa)

The foregoing instrument was acknowledged before me this 8th day of March, 2001, by Jim A. McClurg, Manager of 32 PARK, L.L.C., an Arizona limited liability company.

Stephanie Sawyer
 Notary Public

My Commission Expires:

10/1/2002



CONSENT

The undersigned Mortgagee hereby consents to the foregoing First Amendment to Declaration of Horizontal Property Regime and Covenants, Conditions and Restrictions Park Fifth Avenue Condominiums.

HILTON FINANCIAL CORPORATION,
an Arizona corporation

By: 
Jack W. Hilton

Its: President

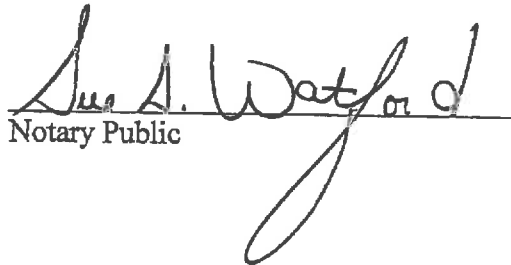
STATE OF ARIZONA)

Unofficial Document

) ss.

County of Maricopa)

The foregoing instrument was acknowledged before me this 8th day of March, 2001, by Jack w. Hilton, President of HILTON FINANCIAL CORPORATION, an Arizona corporation.


Notary Public

My Commission Expires:

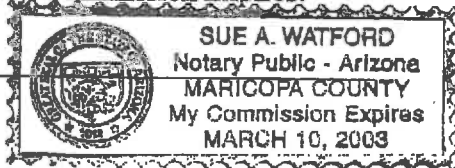


Exhibit A

PARCEL NO. 1: (PHASE 4)

A portion of WOOLF MANOR, according to Book 52 of maps, Page 19, records of Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the Southeast corner of the Southwest quarter of the Northwest quarter of the Southwest quarter of said Section 20;

Thence North 89 degrees 56 minutes 50 seconds West, a distance of 288.23 feet to the Southwest corner of said WOOLF MANOR;

Thence North 0 degrees 14 minutes 34 seconds East for a distance of 502.27 feet to the TRUE POINT OF BEGINNING;

Unofficial Document

Thence continuing North 0 degrees 14 minutes 34 seconds East, a distance of 125.00 feet to a point in the Southerly right-of-way line of Turney Avenue;

Thence East along said Southerly right-of-way for a distance of 273.09 feet to the beginning of a curve to the right having a radius of 20.00 feet;

Thence Southeasterly along the arc of said curve through a central angle of 90 degrees 9 minutes 45 seconds and a distance of 31.47 feet;

Thence South 0 degrees 9 minutes 45 seconds West for a distance of 79.61 feet;

Thence North 89 degrees 45 minutes 26 seconds West for a distance of 109.29 feet;

Thence South 0 degrees 14 minutes 34 seconds West, a distance of 26.58 feet;

Thence North 89 degrees 45 minutes 26 seconds West a distance of 184.00 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 2: (PHASE 3)

A portion of WOOLF MANOR, according to Book 52 of Maps, Page 19, records of Maricopa County, Arizona, more particularly described as follows;

COMMENCING at a point on the South line of said WOOLF MANOR, being the Southeast corner of the Southwest quarter of the Northwest quarter of the Southwest quarter of Section 20, Township 2 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County Arizona;

Thence North 89 degrees 56 minutes 50 seconds West along said South line a distance of 288.23 feet to the Southwest corner of said WOOLF MANOR;

CONTINUED

Thence North 0 degrees 14 minutes 34 seconds East, along the West line of said WOOLF MANOR, a distance of 30.00 feet to a point on the Northerly right-of-way line of Glenrosa Street;

Thence South 89 degrees 56 minutes 50 seconds East along said Northerly right-of-way, a distance 128.00 feet;

Thence North 0 degrees 14 minutes 34 seconds East, a distance of 110.00 feet;

Thence North 89 degrees 45 minutes 26 seconds West, a distance of 27.00 feet;

Thence 0 degrees 14 minutes 34 seconds East, a distance of 60.00 feet;

Thence South 89 degrees 45 minutes 26 seconds East, a distance of 60.00 feet;

Thence North 0 degrees 14 minutes 34 seconds East, a distance of 87.42 feet to the TRUE POINT OF BEGINNING;

Thence North 89 degrees 45 minutes 26 seconds West, a distance of 161.00 feet to a point on the West line of said WOOLF MANOR;

Unofficial Document

Thence North 0 degrees 14 minutes 34 seconds East along said West line, a distance of 214.42 feet;

Thence South 89 degrees 45 minutes 26 seconds East, a distance of 184.00 feet;

Thence North 0 degrees 14 minutes 34 seconds East, a distance of 26.58 feet;

Thence South 89 degrees 45 minutes 26 seconds East, a distance 109.29 feet to a point on the Westerly right-of-way line of Fifth Avenue;

Thence South 0 degrees 09 minutes 45 seconds West along said Westerly right-of-way line, a distance of 237.01 feet;

Thence North 89 degrees 45 minutes 26 seconds West, a distance of 132.62 feet;

Thence South 0 degrees 14 minutes 34 seconds West, a distance of 4.00 feet to the TRUE POINT OF BEGINNING.

PARCEL NO. 3: (PHASE 1)

Units 1 through 19 inclusive, Units 81 through 90 inclusive, Units 92 through 94 inclusive, PARK FIFTH AVENUE CONDOMINIUMS, according to Declaration of Horizontal Property Regime recorded in Document No. 83174934 and according to Book 252 of Maps, Page 32, records of Maricopa County, Arizona.

TOGETHER WITH an undivided interest in and to the common elements as set forth in said Declaration and as designated on said Plat.

ARTICLES OF INCORPORATION

OF

~~PARK~~ FIFTH AVENUE CONDOMINIUM ASSOCIATION

In compliance with the requirements of Arizona Revised Statutes Section 10-3201, et seq., as amended, the undersigned hereby adopts and approves the following Articles of Incorporation:

ARTICLE I

Name

The name of this corporation shall be ~~Park~~ Fifth Avenue Condominium Association ("Association").

ARTICLE II

Nonprofit Corporation

The Association is formed as a nonprofit corporation under Arizona law.

ARTICLE III

Place of Business

The initial place of business of the Association is 4330 N. 5th Avenue, Phoenix, Arizona
85013.

ARTICLE IV

Defined Terms

All capitalized terms used herein which are not defined shall have the same meanings as set forth in the Declaration of Horizontal Property Regime and Covenants, Conditions and Restrictions Park Fifth Avenue Condominiums, dated April 21, 1983, as recorded May 9, 1983, as Document No. 83-174934, records of Maricopa County, Arizona, as amended.

ARTICLE V

Purpose

The purpose for which this Association is organized is to perform all duties and obligations of the Association and to exercise all rights and powers granted to the Association by the Project Documents. In furtherance of the foregoing purpose, the Association may transact any or all lawful business for which nonprofit corporations may be incorporated under the laws of the State of Arizona, as they may be amended from time to time.

ARTICLE VI

Powers

The Association shall have all common law and statutory powers conferred upon nonprofit corporations under Arizona law and all of the powers necessary or desirable to perform the duties and obligations of the Association and to exercise all rights and powers granted to the Association by the Project Documents.

ARTICLE VII

Membership and Voting Rights

Each Owner shall be a Member of the Association and shall be entitled to such rights, privileges and votes in the Association as are set forth in the Project Documents.

ARTICLE VIII

Directors

The number of directors constituting the initial Board of Directors shall be one— (1—). The names and addresses of the directors of the initial Board of Directors, who shall hold office until ~~his~~^{their} successors are elected and qualified, or until removed, are as follows:

Jim A. McClurg 4330 N. 5th Avenue
Phoenix, Arizona 85013

ARTICLE IX

Director Liability

The members of the Board of Directors of the Association shall not be personally liable to the Association or its Members for monetary damages for any action taken or any failure to take any action as a director, except liability for any of the following: (i) the amount of any financial benefit received by a director to which the director is not entitled; (ii) an intentional infliction of harm to the Association or the Members; (iii) a violation of Arizona Revised Statutes Section 10-3833; and (iv) an intentional violation of criminal law. If Arizona law is subsequently amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Association, in addition to the limitation on personal liability provided herein, shall be limited to the fullest extent permitted by Arizona law.

ARTICLE X

Dissolution

The Association may be dissolved upon a resolution adopted by the Board of Directors and the affirmative vote of Members representing not less than seventy-five percent (75%) of the total votes in the Association. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that acceptance of such dedication is refused, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes.

ARTICLE XI

Duration

The duration of this Association shall be perpetual.

ARTICLE XII

VA/FHA Approval

As long as there is a Class B Membership, the following actions shall require the prior approval of Veterans Administration, so long as the Project Condominium is approved by the Veterans Administration for the guaranteeing of mortgages, and the Federal Housing Administration, so long as the Project Condominium is approved by the Federal Housing Administration for the insuring of mortgages: annexation of additional properties, mergers, consolidations, mortgaging of Common Area, dedication of Common Area, dissolution of the Association, and amendment of these Articles.

ARTICLE XIII

Bylaws

The Bylaws of the Association shall be adopted by the Board of Directors and may be amended or rescinded in the manner provided in the Bylaws.

ARTICLE XIV

Amendments

These Articles may be amended upon a resolution adopted by the Board of Directors and the affirmative vote of Members representing not less than seventy-five percent (75%) of the total votes in the Association. As long as there is a Class B Membership, the Declarant, without the vote of the Board of Directors or the Members, may amend these Articles to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including, without limitation, the Federal National Mortgage Association, the Federal

Home Loan Mortgage Corporation, the Federal Housing Administration, or the Veterans Administration. Any amendment to these Articles during the period there is a Class B Membership shall require the prior written consent of the Declarant. These Articles shall not be amended to contain any provision which would be contrary to or inconsistent with the Declaration.

ARTICLE XV

Statutory Agent

Gary A. Drummond, Esq., whose address is 2525 E. Arizona Biltmore Circle, Suite 117, Phoenix, Arizona 85016, and who has been a bona fide resident of the State of Arizona for at least three (3) years, is hereby appointed as the initial statutory agent for the Association upon whom all notices and processes, including service of summons, may be served. The Board of Directors of the Association may, at any time, appoint another statutory agent for such purpose and the filling of such appointment shall revoke this or any other previous appointment of statutory agent.

ARTICLE XVI

Incorporator

The names and addresses of the incorporator of the Association is as follows:

Jim A. McClurg

4330 N. 5th Avenue~~2645 N. 63rd Street~~
Phoenix~~Mesa~~, Arizona 85013~~85215~~

IN WITNESS WHEREOF, the undersigned incorporator of this Association has executed these Articles of Incorporation this 8 day of March, 2001.


JIM A. MCCLURG

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of March, 2001, by JIM A. MCCLURG.

Notary Public

My Commission Expires:

BYLAWS
OF
~~PARK~~ FIFTH AVENUE CONDOMINIUM ASSOCIATION

ARTICLE I
GENERAL PROVISIONS

1.1 Principal Office. The principal office of this Association shall be located at the place as is designated in the Articles of Incorporation or such other place as the Association may designate from time to time in accordance with the Arizona statutes governing nonprofit corporations, but meetings of members and directors may be held at such other place within the State of Arizona as may be designated by the Board of Directors.

1.2 Defined Terms. All capitalized terms used in these Bylaws which are not defined shall have the same meanings as set forth in the Declaration of Horizontal Property Regime and Covenants, Conditions and Restrictions Park Fifth Avenue Condominiums, dated April 21, 1983, as recorded May 9, 1983, as Document No. 83-174934, records of Maricopa County, Arizona, as amended.

1.3 Conflicting Provisions. In the case of any conflict between the Articles and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

1.4 Corporate Seal. The Association may have a seal in a form approved by the Board of Directors.

1.5 Designation of Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

1.6 Books and Records. The books, records and papers of the Association shall be available for inspection by any Member during reasonable business hours. The Project Documents shall be available for inspection by any Member during reasonable business hours at the principal office of the Association, where copies may be purchased at reasonable cost.

1.7 Amendment.

A. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of the Members having at least seventy-five percent (75%) of the votes entitled to be cast by the Members present in person or by proxy.

B. The Board of Directors, without a vote of the Members and without the consent of any First Mortgagee, may amend these Bylaws to (i) comply with Arizona law or any other applicable law if the amendment does not adversely affect the rights of any Owner; (ii) correct any error or inconsistency in the Bylaws if the amendment does not adversely affect the rights of any Owner; or (iii) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including without limitation, the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

C. As long as there is a Class B Membership, any amendment to these Bylaws shall require the prior written consent of the Declarant.

1.8 Indemnification. To the extent it has the power to do so under Arizona law, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that he is or was a member, director, officer, employee or agent of the Association or is or was serving at the request of the Association as a member, director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, and against judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Indemnification of any such person shall be made in accordance with Arizona law.

ARTICLE II

MEETINGS OF MEMBERS

2.1 Annual Meeting. An annual meeting of the Members of the Association shall be held at least once every twelve (12) months at such time and place as is determined by the Board of Directors.

2.2 Special Meetings. Special meetings of the Members may be called at any time by the President or, by the Board of Directors or upon written request signed by Members having at least one-tenth (1/10) of the total authorized votes in the Association.

2.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. When a meeting is adjourned to another time or place, notice need not be given of the

adjourned meeting if the time and place of the meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Association may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each Member entitled to vote at the meeting. By attending a meeting, a Member waives any right he may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Bylaws or Arizona law.

2.4 Quorum. Except as otherwise provided in the Articles, the Declaration or these Bylaws, the presence in person or by proxy of Members entitled to cast forty percent (40%) of the total authorized votes in the Association shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

2.5 Voting. Any action by the Members shall require the vote fifty-one percent (51%) of the Members present and voting at a duly called and held meeting of the Members at which a quorum as required herein has been constituted.

2.6 Proxies. At all meetings of the Members a vote may be cast in person or by proxy. A proxy may be granted by any Member in favor of only another Member, the Secretary of the Association, the Declarant, or the Member's First Mortgagee, or in the case of a non-resident Member, the lessee of such Member's Unit, his attorney or managing agent. A proxy shall be duly executed in writing and it shall be valid only for the particular meeting designated in the proxy. All proxies must be filed with the Secretary prior to the commencement of the meeting for which the proxy is given. The proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of a notice of revocation signed by the Member who granted the proxy. No proxy shall be valid after twenty-five (25) months from the date of its execution.

ARTICLE III

BOARD OF DIRECTORS

3.1 Number. The affairs of this Association shall be managed by a Board of ~~one~~^{three} (13) directors. As long as there is a Class B Membership, the Declarant shall have the right to appoint the members of the Board of Directors who do not have to be Owners. Upon conversion of Class B Membership to Class A Membership, the Owners shall elect the Board of Directors, at least a majority of whom must be Owners. The Board may increase the number of directors on the Board but the number of directors must always be an odd number and shall not exceed nine (9) directors.

3.2 Term of Office. The initial members of the Board shall hold office until their successors are elected and qualified or until removed. Commencing with the first annual meeting of the Members, all directors shall be elected for a term of one (1) year.

3.3 Removal. As long as there is a Class B Membership, the Declarant shall have the right to remove the members of the Board of Directors. Directors may be removed with or without cause by

a two-thirds (2/3) vote of all Members present and entitled to vote at any meeting of the Members at which a quorum is present, other than a director appointed by the Declarant.

3.4 Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

3.5 Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the directors. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

3.6 Vacancies. Following the conversion of Class B Membership to Class A Membership, any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum or by a sole remaining director, and any director so chosen shall hold office until the next election of the directors when a successor is elected and qualified. Any newly created directorship shall be deemed a vacancy. When one or more directors resigns from the Board of Directors, effective at a future time, a majority of the directors then in office, including those who have so resigned, may fill such vacancy, the vote on the vacancy to take effect when such resignation becomes effective. If by reason of death, resignation or otherwise, the Association has no directors in office, any officer or Member may call a special meeting of the Members for the purpose of electing the Board of Directors.

3.7 Meetings.

A. Meetings of the Board of Directors, regular or special, shall be held at least annually and may be held by means of conference telephone or other similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation at such meeting shall constitute presence in person at the meeting.

B. Regular meetings of the Board of Directors may be held with or without notice at such time and place as is determined from time to time by the Board of Directors.

C. Special meetings of the Board of Directors may be called by the President on three (3) business days notice to each director, given in writing, by hand delivery, mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

D. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

3.8 Quorum. A majority of the directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

3.9 Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Project Documents required to be exercised or done by the Members. In addition to the duties imposed by these Bylaws or by any resolution of the Members that may hereafter be adopted, the Board of Directors shall have the following powers and duties:

A. Open bank accounts on behalf of the Association and designate the signatories thereon;

B. Make, or contract for the making, of repairs, additions to, improvements to or alterations of the Common Areas, in accordance with the Project Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

C. In the exercise of its discretion, enforce by legal means the provisions of the Project Documents;

D. Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair, replacement of the Common Areas and provide services for the Members, and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

E. Provide for the operation, care, upkeep and maintenance of all of the Common Areas and borrow money on behalf of the Association when required in connection with any one instance relating to the operation, upkeep and maintenance for the Common Areas; provided, however, the consent of Members having at least seventy-five percent (75%) of the total votes in the Association shall be obtained either in writing or at a meeting called and held for such purpose in accordance with the provisions of these Bylaws in order for the Association to borrow in excess of Five Thousand and 00/100 Dollars (\$5,000);

F. Prepare and adopt an annual budget for the Association prior to the commencement of each fiscal year;

G. Adopt and publish rules and regulations governing the use of the Common Areas and the personal conduct of the Members and their family members, guests, lessees and invitees thereon and establish penalties for the infraction thereof;

H. Suspend the voting rights and the right to use of the Common Areas of a Member during any period in which such Member shall be in default in the payment of any Assessment or other amounts due under the terms of the Project Documents;

I. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Project Documents;

J. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

K. Employ, hire and dismiss such employees as they deem necessary and to prescribe their duties and their compensation;

L. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by any Member entitled to vote;

M. Supervise all officers, agents and employees of the Association and see that their duties are properly performed;

N. Levy, collect and enforce the payment of Assessments in accordance with the provisions of the Declaration;

O. Issue, or cause an appropriate officer to issue upon demand to any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

P. Procure and maintain adequate property, liability and other insurance as required by the Declaration;

Q. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

R. Cause the Common Areas to be maintained, as more fully set forth in the Declaration.

3.10 Managing Agent. The Board of Directors may employ for the Association and the Project a managing agent ("Managing Agent") at a compensation established by the Board of Directors. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, including, but not limited to, all of the duties listed in the Project Documents except for such duties and services that under the Project Documents may not be delegated to the Managing Agent. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors or the officers of the Association by the Project Documents other than the power (i) to adopt the annual budget, any amendment thereto or to levy Assessments; (ii) to adopt, repeal or amend rules and regulations; (iii) to designate signatories on Association bank accounts; (iv) to borrow money on behalf of the Association; or (v) to acquire real property.

ARTICLE IV

OFFICERS AND THE DUTIES

4.1 Enumeration of Officers. The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer all of whom shall be elected by the Board of Directors. The President must be a member of the Board of Directors. Any other officers may, but need not, be members of the Board of Directors.

4.2 Election of Officers. As long as there is a Class B Membership, the Declarant shall have the right to appoint officers of the Association who do not have to be Owners. Upon conversion of Class B Membership to Class A Membership, the Board of Directors shall elect the officers of the Association, which election shall take place following each annual meeting of the Members.

4.3 Term. The officers of the Association shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4.4 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may, from time to time, determine.

4.5 Resignation and Removal. As long as there is a Class B Membership, the Declarant shall have the right to remove officers of the Association. Upon conversion of Class B Membership to Class A Membership, any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Vacancies. Following conversion of Class B Membership to Class A Membership, a vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

4.7 Multiple Offices. Any two (2) or more offices may be held simultaneously by the same person.

4.8 Powers and Duties. To the extent such powers and duties are not assigned or delegated to a Managing Agent pursuant to Section 3.10 of these Bylaws, the powers and duties of the officers shall be as follows:

A. President. The President shall be the chief executive officer of the Association; shall preside at all meetings of the Board of Directors or the Members; shall see that orders and resolutions of the Board of Directors are carried into effect; and have general and active management of the business of the Association.

B. Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds for appropriate Association purposes as set forth in the Project Documents; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy each to the Members; and, in general, perform all the duties incident to the office of Treasurer.

ARTICLE V

FINES

5.1 Power of Board of Directors to Impose Fines. Pursuant to the power granted to the Board of Directors by the Declaration, the Board of Directors shall have the right to impose reasonable fines against an Owner for a violation of any provision of the Project Documents by the Owner, his family, tenants or guests.

5.2 Notice of Violation.

A. The Board of Directors or any person designated by the Board of Directors, may serve a notice of violation ("Notice of Violation") against an Owner for a violation of any provision of the Project Documents by the Owner, his family, tenants or guests. A Notice of Violation shall contain (i) a description of the violation, (ii) the approximate time and place at which the violation was observed, (iii) the amount of the fine to be paid by the Owner for such violation, (iv) the name of the person issuing the Notice of Violation, and (v) a statement advising the Owner of the Owner's right to request a hearing pursuant to Section 5.2.D. of these Bylaws.

B. A Notice of Violation shall be deemed to have been served if delivered personally to the Owner named in the Notice of Violation or sent to the Owner by registered or certified United States mail, return receipt requested, postage prepaid. A Notice of Violation served by mail shall be deemed to have been received by the Owner to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is deposited in the United States mail. A Notice of Violation given by mail shall be addressed to the Owner at the address of the Owner as shown on the records of the Association. If a Condominium Unit is owned by more than one person or entity, a Notice of Violation to one of the joint Owners shall constitute notice to all of the joint Owners.

C. The Owner shall pay the fine set forth in the Notice of Violation to the Association within ten (10) days after the Notice of Violation is served on the Owner unless prior to that time the Owner requests a hearing on the violation pursuant to Section 5.2.D. of these Bylaws.

D. Any Owner served with a Notice of Violation may request a hearing on the violation. The request for a hearing must be addressed to the Secretary of the Association and must be actually received by the Association within ten (10) days after the service of the Notice of Violation. Upon receipt of a request for a hearing pursuant to this Section, the President or any other officer of the Association shall schedule a hearing on the violation before the Board of Directors or before a hearing officer or a committee approved by the Board of Directors and shall notify the Owner requesting the hearing of the date, time and place of the hearing. The notice of the hearing shall also advise the Owner of his right to produce statements, evidence and witnesses on his behalf and to be represented at the hearing by an attorney. If the hearing on the violation is before the Board of Directors, then the minutes of the meeting of the Board of Directors at which the hearing is held shall reflect the fact that the hearing on the violation was held and the action taken by the Board of Directors on the violation. If the hearing is held before a hearing officer or a committee appointed by the Board of Directors, then the hearing officer of the committee conducting the hearing shall, within ten (10) days after the conclusion of the hearing, make a written recommendation to the Board of Directors on what action the Board of Directors should take on the violation. Upon receipt of the recommendation from the hearing officer or the committee, the Board of Directors shall act upon the recommendation. Any fine which is affirmed by the Board of Directors following a hearing pursuant to this Section shall be paid by the offending Owner within ten (10) days after a notice of the action of the Board of Directors is served upon the Owner. Service of the notice from the Board of Directors shall be made in same manner as service of a Notice of Violation pursuant to Section 5.2B. of these Bylaws.

E. Any fines imposed pursuant to this Article 5 shall be the joint and several liability of all of the joint Owners of a Unit.

ARTICLE VI

ARCHITECTURAL COMMITTEE

6.1 Committee Composition. The Architectural Committee shall consist of at least three (3) members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. Members of the Architectural Committee appointed by the Declarant need not be Members of the Association. Members of the Architectural Committee appointed by the Board of Directors shall be Members of the Association. Officers and directors of the Association can be members of the Architectural Committee. The Board of Directors may increase the number of members on the Architectural Committee but the number of members must always be an odd number.

6.2 Terms of Office. The term of office for members of the Architectural Committee shall be a period of one year, or until the appointment of a 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 expired may be reappointed.

6.3 Appointment and Removal. As long as there is a Class B Membership, the Declarant shall have the right to appoint and remove the members of the Architectural Committee. Upon conversion of Class B Membership to Class A Membership, the Board of Directors shall appoint and remove all members of the Architectural Committee, except that no member may be removed from the Architectural Committee by the Board of Directors unless the removal is approved by the vote or written consent of more than fifty percent (50%) of all of the members of the Board of Directors.

6.4 Resignations. Any member of the Architectural Committee may at any time resign from the Committee by giving written notice thereof to the Board of Directors.

6.5 Vacancies. Following conversion of Class B Membership to Class A Membership, vacancies on the Architectural Committee, however caused, shall be filled by the Board of Directors. A vacancy or vacancies on the Architectural Committee shall be deemed to exist in case of the death, resignation or removal of any member.

6.6 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 of the Declaration, to adopt Architectural Committee rules, to perform other duties delegated to it by the Board of Directors, and to carry out all other duties imposed upon it by the Declaration.

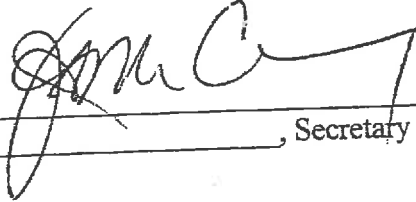
6.7 Meetings and Compensation. The Architectural Committee shall meet from time to time as necessary to perform its duties. The vote or written consent of a majority of the members of the Committee, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of the 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.

6.8 Architectural Committee Rules. The Architectural Committee may adopt, amend and repeal, by unanimous vote or written consent, rules and regulations. Said rules shall interpret and implement the 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 required to be used within the Project Condominium.

6.9 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 the Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or other matter subsequently submitted for approval.

CERTIFICATION

I hereby certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association on the 8 day of March, 2001.


_____, Secretary