

Common Elements. The limits of liability for such coverage shall not be less than \$1,000,000.00 for each occurrence with respect to bodily injury, death or property damage. The Association shall also obtain and maintain steam boiler explosion insurance with limits of liability of not less than \$100,000.00 per occurrence in the event there is a steam boiler in operation on the Property.

9.3 Workmen's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance as may be necessary to comply with applicable law.

9.4 Fidelity Bonding. The Association shall obtain and maintain bonds covering all persons or entities which handle funds of the Association, including without limitation any professional manager employed by the Association and any of such professional manager's employees, in amounts not less than the maximum funds that will at any time be in the possession of the Association or any professional manager employed by the Association but, in no event less than the total of (i) assessments for a three (3) month period with respect to all Units, and (ii) all reserve funds maintained by the Association. With the exception of a fidelity bond obtained by a professional manager covering such professional manager's employees, all fidelity bonds shall name the Association as an obligee. In addition, all such bonds shall provide that the same shall not be terminated, cancelled or substantially modified without at least thirty (30) days prior written notice to the Association and all First Mortgagees.

9.5 Insurance by Owners. Each Owner shall be free to obtain such additional or other insurance as he deems desirable, including insurance covering his furnishings and personal property, including by way of illustration, but not of limitation, any additions, alterations and improvements he may have made to his Unit, and covering personal

liability of himself and his employees, agents and invitees and any other persons for whom such Owner may be responsible. Any insurance policy obtained by an Owner must not diminish or adversely affect or invalidate any insurance or insurance recovery under policies carried by the Association and must, to the extent possible, contain a waiver of the rights of subrogation by the insurer as to any claim against the Association, its officers, directors, agents and employees and against other Owners and their employees, agents and invitees and against any Mortgagee of all or any part of the Property or any Unit or other person for which the Association or any such Owner or Mortgagee may be responsible.

9.6 Receipt and Application of Insurance Proceeds.

Except in a case where a Mortgagee or any other person shall have the legal right to receive insurance proceeds directly, all insurance proceeds and recoveries under policies maintained by the Association shall be paid to and received by an independent financial institution or title company selected by the Association authorized to act as escrow agent for the benefit of the Association, the Declarant, all Owners and all Mortgagees of any Unit or all or any part of the Property as their respective interests may appear. Subject to the rights of any Mortgagee, the Association shall have the right, acting alone, to adjust or settle any claim by it under any insurance maintained by it. Such funds shall be disbursed by said escrow agent in accordance with the following priorities, subject to such evidence of application as such escrow agent shall require, and shall be applied by the Association as follows: first, as expressly provided in paragraph 11 hereof; second, to the Owners or persons whom the Association determines are legally or equitably entitled thereto; and third, the balance, if any, to the Owners in proportion to their respective interest in the Common Elements. Notwithstanding any provision

contained herein to the contrary, the rights of and lien priority of any First Mortgagee shall not be affected by any loss, damage or destruction and shall continue in any insurance proceeds payable with respect to the Unit subject to such Mortgage in accordance with the provisions of such Mortgage.

9.7 Insurance by the Declarant. So long as Declarant remains the owner of more than one (1) Unit or so long as may be required under the Veterans Administration Rule ("VAR") 4360 (A) (5), Declarant shall maintain one or more policies of liability insurance which in all respects comply with the requirements of VAR 4360 (A) (5).

9.8 Other Insurance by the Association. The Association shall also have the power and authority to obtain and maintain other and additional insurance coverage, including but not limited to casualty insurance covering personal property of the Association, fidelity bonds or insurance covering employees and agents of the Association and insurance indemnifying officers, directors, employees and agents of the Association. Notwithstanding any other provisions of this Declaration, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bonds meeting the insurance and fidelity bond requirements for condominium projects established by Federal National Mortgage Association or Government National Mortgage Association, so long as either is a Mortgagee or Owner of a Unit, except to the extent that such coverage is not available or has been waived in writing by Federal National Mortgage Association or Government National Mortgage Association.

10. Destruction, Condemnation, Obsolescence, and Restoration or Sale of Property.

10.1 Definition. As used herein, the following terms shall have the following definitions:

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

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

(3) "Substantial Obsolescence" shall exist whenever the Owners of Units to which seventy-five percent (75%) of the undivided interest in the Common Elements is appurtenant determine by vote that the Property or any part thereof has reached an undesirable state of obsolescence or disrepair. "Partial Obsolescence" shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.

(4) "Restoration", in the case of any casualty, damage or destruction, shall mean restoration of the Property to a condition the same or substantially the same as the condition in which the Property existed prior to the casualty, damage or destruction; in the case of condemnation, shall mean restoration of the remaining portion of the Property to an attractive, sound and desirable condition; and, in the case of obsolescence, shall

mean restoration of the Property to an attractive, sound and desirable condition.

(5) "Restored Value of the Property" shall mean the value of the Property after restoration as determined by the Board.

(6) "Available Funds" shall mean any proceeds of insurance or condemnation awards or payments in lieu of condemnation received by the Association and any uncommitted reserves of the Association other than amounts derived through assessments or special assessments. Available Funds shall not include that portion of insurance proceeds or condemnation awards or payments in lieu of condemnation legally required to be paid to any party other than the Association, including a Mortgagee of all or any part of the Property or of any Unit, or that portion of any condemnation award or payment in lieu of condemnation paid to the Owner of a Unit for the condemnation or taking of that Owner's individual air space.

10.2 Restoration of the Property. Restoration of the Property shall be undertaken by the Association without a vote of the Owners in the event of Partial Destruction, Partial Condemnation or Partial Obsolescence and shall be undertaken in the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence unless the Owners of Units to which one hundred percent (100%) of the undivided interest in the Common Elements is appurtenant and Eligible Mortgage Holders holding Mortgages on Units to which one hundred percent (100%) of the undivided interest in the Common Elements is appurtenant consent to terminate the horizontal property regime established pursuant to this Declaration. Such restoration shall be performed substantially in accordance with this Declaration and the original plans and specifications for the Buildings, the Common Elements and the Units.

10.3 Sale of the Property. In the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence and the Owners of Units to which one hundred percent (100%) of the undivided interest in the Common Elements is appurtenant and Eligible Mortgage Holders holding Mortgages on Units to which one hundred percent (100%) of the undivided interest in the Common Elements is appurtenant consent to terminate the horizontal property regime created pursuant to this Declaration, the property shall be sold. In the event of such sale, condominium ownership under this Declaration shall terminate and the proceeds of sale and any insurance proceeds, condemnation awards or payments in lieu of condemnation shall be distributed by the Association pro rata to each Owner according to the ratio that the cubic content space of such Owner's Unit bears to the total cubic content space of all Units in the horizontal property regime created pursuant to this Declaration. Such payment shall be made to Owners or, as to Units which are subject to a Mortgage of record at the time of such payment jointly to such Owner and such Mortgagee as their interests may appear.

10.4 Special Assessments for Restoration. Whenever Restoration is to be undertaken, the Association may levy and collect assessments from each Owner in proportion to such Owner's undivided interest in the Common Elements, payable over such period as the Association may determine, to cover the costs and expenses of Restoration to the extent not covered by the Available Funds. Such special assessments together with interest at the rate of twelve percent (12%) per annum from the date such special assessment became due, costs and reasonable attorneys' fees, shall be secured by a lien on the Unit of each such Owner in the same manner as the lien provided for in paragraph 7 hereof.

10.5 Receipt and Application of Condemnation Funds.

Except in a case where a Mortgagee or any other person shall have the legal right to receive condemnation awards or payments in lieu of condemnation or eminent domain directly, all compensation, damages or other proceeds constituting awards for condemnation or eminent domain or payments in lieu of condemnation or eminent domain shall be paid to, or if received by the Association shall be turned over promptly in the identical form received without commingling with any asset or property of the Association, to an independent financial institution or title company selected by the Association authorized to act as escrow agent for the benefit of the Association, the Declarant, all Owners and all Mortgagees of any Unit or all or any part of the Property as their respective interests may appear. The Association shall have the right, acting alone, to adjust or settle any condemnation award or payment in lieu of condemnation or eminent domain payable to it. Such funds shall be disbursed by said escrow agent in accordance with the following priorities, subject to such evidence of application as such escrow agent shall require. The amount thereof equitably allocable as compensation for the taking of or injury to the individual air space of a particular Unit or to improvements of an Owner therein shall be apportioned and paid to the Owner of such Unit or, as to Units which are subject to a Mortgage of record at the time of such payment, jointly to such Owner and such Mortgagee as their interests may appear. The balance of such funds shall be applied to costs and expenses of Restoration, if undertaken, and, to the extent not so applied, shall be allocated as follows: first, any portion of such funds allocable to the taking of or injury to the Common Elements shall be apportioned among all Owners of the Common Elements according to the ratio that the cubic content space of each Owner's Unit bears to the total cubic content space of all

Units in the horizontal property regime created pursuant to this Declaration; secondly, any portion of such funds received or awarded for severance damages shall be apportioned among Owners of Units whose individual air space was not taken or injured according to the foregoing ratio; thirdly, any portion of such funds received or awarded for consequential damages or for other purposes shall be apportioned as the Association determines to be equitable under the circumstances. The lien priority of any First Mortgagee shall not be disturbed by any condemnation proceeding and shall continue in the proceeds of any condemnation award attributable to the mortgaged Unit in accordance with the provisions of this paragraph.

10.6 Reorganization in the Event of Condemnation.

Subject to the provisions of A.R.S. §33-556, in the event all of the individual air space within a Unit is taken by condemnation or eminent domain, such Unit shall, upon payment of compensation as hereinabove provided, cease to be a part of the Property, the Owner thereof shall cease to be a member of the Association, and the undivided interest in Common Elements appurtenant to that Unit shall automatically become vested in the Owner of each remaining Unit whose undivided interest in and to the Common Elements shall be equal to a fraction with a numerator of one and a denominator equal to the total number of Units then a part of the Horizontal Property Regime.

11. Rights of Owners in any Distributions. In the event that any Owner or Mortgagee is entitled to receive any distribution of money, property or other things from the Association for any reason, including without limitation the sale or other disposition of all or any part of the Common Elements or the cessation or termination for any reason of the horizontal property regime created hereby, such distribution shall be according to the ratio that the cubic content space of such Owner's or Mortgagee's Unit bears to

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the total cubic content space of all Units in the horizontal property regime created pursuant to this Declaration, except as specifically provided to the contrary in paragraphs 9 or 10 hereof.

12. Maintenance, Repairs and Replacements; Right of Access. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit and of any portion of the air conditioning, electrical, plumbing and heating systems and lines which exclusively serve his Unit; and each Owner shall keep the patio and balcony areas, if any, adjacent to his Unit in a neat, clean and attractive condition. If, due to the willful or negligent act of an Owner or a member of his family or guest or other occupant or visitor of such Owner, or other person for whom such Owner may be responsible, damage shall be caused to the Common Elements or to a Unit or Units owned by others or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Owner, if liable for such damage under local law, upon receipt of a statement from the Board shall pay for such damage and for such maintenance, repairs or replacements as may be determined by the Board. The amount payable for such maintenance, repairs or replacements, together with interest at the rate of twelve percent (12%) per annum from the date such amount is due, costs and attorneys' fees, shall be secured by a lien against the Unit of such Owner as provided in paragraph 7 hereof. An authorized representative of the Board, or of the manager or managing agent of the Property, and all contractors and repairmen employed or engaged by the Board or such manager or managing agent, shall be entitled to access at any time to each of the Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or

fixtures affecting or serving other Units or the Common Elements.

Alterations, Additions or Improvements.

Notwithstanding anything contained in paragraph 18 hereof to the contrary, no alterations of any Common Elements or any additions or improvements thereto or any alterations, additions or improvements to the patio or balconies associated with any Unit shall be made by any Owner, except Declarant, without the prior written approval of the Board. Any Owner may make non-structural alterations, additions or improvements within the interior of his Unit (but excluding for purposes of the authority herein granted any patio or balcony) without the prior written approval of the Board, but such Owner shall be responsible for any damage to any other Units, the Common Elements or the Property which may result from such alteration, addition or improvement. In addition to the required approval of the Board, there shall be no structural alterations or additions to any Building without the prior approval of a majority of the Owners given at a regular or special meeting of the members of the Association and the prior approval of all First Mortgagees. Unless otherwise determined at any such meeting, the cost of such alterations or additions shall be paid by means of a special assessment levied and collected from each Owner in proportion to such Owner's undivided interests in the Common Elements. Such special assessment together with interest at the rate of twelve percent (12%) per annum from the date such special assessment became due, costs and reasonable attorneys' fees, shall be secured by a lien against each Unit as provided in paragraph 7 hereof.

14. Decorating. Each Owner, at his own expense, shall furnish and be responsible for all of the decorating within his own Unit (but any furnishing or decorating of any patio or balcony shall be subject to the provisions of paragraph 18 hereof) from time to time, including painting,

wallpapering, paneling, floor coverings, draperies, window shades, curtains, lamps and other furniture and interior decorating. Each Owner shall be entitled to the exclusive use of the interior unfinished surfaces of the walls, floors and ceilings within his Unit, and each Owner shall have the right to decorate such surfaces from time to time as he may see fit at his sole expense. However, such Owner shall maintain such surfaces in good condition, and all such use, maintenance and decoration shall be subject to regulation by the Board. Decorating and maintenance of the Common Elements and any redecorating of Units to the extent made necessary by any damage caused by maintenance, repair or restoration work by the Association on the Common Elements shall be furnished by the Association and paid for as part of the Common Expenses.

15. Encroachments. If any portion of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portion of the Common Elements, or if any Unit or entryway providing ingress and egress thereto or therefrom shall actually encroach upon another Unit or entryway, as the Common Elements and the Units are shown on the Plat attached hereto as Exhibit "B" whether such encroachment results from the initial construction or from subsequent repair, reconstruction, settlement or shifting, there shall be deemed to be mutual easements in favor of the Owners of the Common Elements and the respective Owners involved to the extent of such encroachment so long as the same shall exist provided, however, that no such easement shall result from any alteration, addition or improvement made by an Owner, except Declarant, without the prior written approval of the Board. The Association shall at all times have the right to maintain any Common Elements now existing or hereafter constructed, regardless of any encroachment now or hereafter existing of any such Common Elements upon any Unit.

16. Purchase of Unit by Association. Upon the consent or approval of a majority of Owners present and voting at a general or special meeting of the members of the Association or in such other manner as may be deemed by the Board to be necessary or expedient, the Board shall have the power and authority to bid for and purchase any Unit at a sale pursuant to a mortgage foreclosure, trustee's sale under a trust deed, or a foreclosure of any lien for assessments or other charges provided for in this Declaration, or at a sale pursuant to an order or direction of a court, or other involuntary sale, and the Board shall have the power and authority to finance such purchase of a Unit by Mortgage, special assessment or any other financing arrangement that the Board may deem necessary or expedient.

17. Use and Occupancy Restrictions. No part of the Property shall be used other than as a dwelling and the related common purposes for which the Property was designed, except that Declarant shall have the right to maintain sales and any other offices, model units, and signs on the Property, together with rights of ingress and egress therefrom, and to do such other acts and maintain such other facilities as are incidental to the development and sale of the Units now or hereafter existing in the horizontal property regime created hereby. No Owner shall permit his Unit to be used for transient or hotel purposes or shall enter into any Lease for less than the entire Unit or for a term of less than thirty (30) days. Any Lease for any Unit shall be in writing, shall in all respects be subject to and in compliance with the provisions of this Declaration, the Articles and Bylaws and shall expressly provide that a violation of any such provisions shall be a default under such Lease, and a copy of any such Lease shall be delivered to the Association prior to the commencement of the term of such Lease. Each Unit or any two or more adjoining Units used together shall be used as a single family residence or

for such other purposes as are permitted by this Declaration and for no other purpose. The foregoing restrictions shall not, however, be construed in any manner as to prohibit an Owner from maintaining his personal and/or a reasonable professional library therein and keeping his personal business records therein.

The Common Elements shall be used only for access, ingress and egress to and from the respective Units by the Owners thereof, their agents, servants, tenants, family members, licensees and invitees and for such other purposes as are incidental to the residential use of the Units. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Owner.

No Owner shall keep or maintain any thing or shall suffer any condition to exist in his Unit or cause any other condition on the Property or the Common Elements which materially impairs any easement or right of any other Owner or otherwise materially impairs or interferes with the use and enjoyment by other Owners of their Units and the Common Elements. Subject to the foregoing, commonly accepted household pets not exceeding a mature weight of twenty (20) pounds may be kept in a Unit, but no such pets shall be bred or allowed loose or unsupervised on any part of the Property or the Common Areas. Walking of pets shall be prohibited except at such times and subject to such rules, regulations and fines as the Board may from time to time establish.

If the Board determines that any motor vehicle is creating loud or annoying noises by virtue of its operation within the Property, or that the parking or storage of any vehicle or trailer on the Property is unsightly or detracts from the overall character of the Property, such determination shall be conclusive and final that the operation or storage of such vehicle is a nuisance, and said

operation, upon notice by the Board to the owner or operator thereof, shall be prohibited within the Property.

No structure of a temporary character shall be permitted on the Property or the Common Elements, and no tent, shack, barn or trailer shall be permitted on the Property or Common Elements either temporarily or permanently, unless it is located thereon by or with the prior written consent of the Board.

Signs
No sign of any nature whatsoever, other than a dignified name and/or address sign, shall be displayed or placed on any Unit, in any window or on any part of the Property or the Common Elements. No "For Sale" or "For Rent" signs of any nature whatsoever shall be permitted on any part of the Property, and no other signs or graphics shall be permitted on any patio or balcony or on any of the Common Elements without the prior written consent of the Board. A master "For Sale" sign may be placed on the Property by the Board of Directors with a telephone number to call for information. The provisions of this paragraph relating to signs shall not apply to the Declarant until the last Unit owned by Declarant in The Mews on Twenty-Eighth Street has been sold.

Except as initially installed by Declarant, no spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any building, structure, patio or balcony which in any manner will allow light to be directed or reflected on the Common Elements or any part thereof.

No window air conditioners or portable units of any kind shall be installed in any Building.

No reflective materials, including but not limited to aluminum foil, reflective screens or glass, mirrors or similar type items, shall be permitted to be installed or placed on the outside or inside of any windows. Enclosures, shades, screens or other items affecting the exterior

appearance of any patio or balcony shall not be permitted without the prior written consent of the Board of Directors and shall be subject at all times to the rules and regulations of the Board and to the provisions of paragraph 18 hereof.

No radio, television or other antennas of any kind or nature shall be placed or maintained upon any Unit or any other portion of the Property except that Declarant shall have the right to install a master antenna or antennas and to provide access to such antenna to the Units.

No clotheslines shall be installed on any patio or balcony and no Owner shall permit any personal property to be stored on any patio or balcony which is visible from the exterior of any Building.

Without limiting the foregoing, each Owner shall maintain and keep his Unit at all times in a safe, sound and sanitary condition and shall repair and correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Units or of the Common Elements. No Owner shall place or permit any personal property, garbage, debris or refuse to be placed or to accumulate on any portion of the Common Elements adjacent to any Unit.

Pursuant to the right of entry provided for in paragraph 20 hereof, the Board or its authorized agents may enter any Unit in which a violation of these restrictions exists upon giving reasonable notice to the Owner of such Unit and may correct such violation at the expense of the Owner of such Unit. Such expense shall be secured by a lien against such Unit in the same manner and with the same interest rate as the lien provided for in paragraph 7 hereof.

The Association may modify the foregoing restrictions or otherwise restrict and regulate the use and occupancy of the Property and the Common Elements by reasonable rules and

regulations of general application adopted by the Board from time to time.

Architectural Control. No building, fence, wall, antenna, tower, awning, sign or other structure of any kind or character shall be constructed, erected, placed or maintained upon the Property, nor shall any exterior addition, change or alteration be made thereto or therein, including without limitation to any exterior wall, patio or balcony, whether or not part of any Unit, which is visible from the exterior of the Building, and no additions to, changes in, or alterations of landscaping, grade or drainage shall be made, until plans and specifications showing the nature, kind, color, shape, height, materials, location and other physical attributes of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board or by an architectural committee appointed by the Board. In the event the Board, or such committee, if one has been appointed, fails to approve or disapprove such proposal at its next regular meeting occurring more than thirty (30) days after proper plans and specifications have been received by it, such approval will not be required, and this paragraph will be deemed to have been fully complied with. The restrictions contained in this paragraph shall not apply to the Declarant in any way.

19. Exemption of Declarant from Restrictions. Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, its employees, agents, and subcontractors, or parties designated by it in connection with the construction, completion, sale or leasing of the Units.

20. Entry by Board or its Agent. The Board or its authorized agents may enter any Unit at any time when any two (2) members of the Board deem it necessary or advisable for the enforcement of any restriction hereinabove set forth, to effect emergency or other necessary repairs or otherwise for the protection and preservation of that Unit or other Units provided, however, that except in the event of an emergency, the Board shall give the Owner of such Unit reasonable notice prior to such entry. In addition, the Board or its authorized agents may enter any Unit at any time when any member of the Board or its authorized agent believes in his discretion that an emergency exists and that such entry is necessary in order to protect any person or property in such Unit or adjoining Units or for other good cause. If it becomes necessary to break into a Unit because no key or means of access was provided by the Occupant or Owner, as required herein, the Association, its directors, officers and agents shall not be liable for any damage done to the Unit as a result of the exercise of this right of entry. The party exercising this right of entry shall see that reasonable measures are taken to secure the Unit until either the Occupant or Owner shall be notified that the Unit has been entered. Each Occupant or Owner shall either (1) leave a key with the manager of the Association or (2) leave a key with another Occupant or Owner and inform the Board in writing of the name of the Occupant or Owner with whom such key has been left. In the event that the Occupant or Owner with whom such key has been left is not available at a time when it is necessary to exercise this right of entry, the Unit may be forcibly entered pursuant to the conditions stated above.

21. Roof Leaks and Repairs. The Association shall repair promptly all leaks or other damage to the roofs of any of the Buildings of which the Association has notice in writing, provided, however, that the cost of repairing leaks

or damage due to the willful or negligent act of an Owner or a member of his family or guest or other occupant or visitor of such Owner or other person for whom such Owner may be responsible shall be the obligation of such Owner as provided in paragraph 12 hereof.

22. Public Dedication. Nothing contained in this Declaration shall be deemed to constitute a dedication for public use or to create any rights in the general public. Nothing contained in this Declaration shall be construed as creating an obligation on the part of the City of Phoenix or any other governmental authority having jurisdiction over the Property and the Common Elements to maintain, repair or replace any portion of the Property, the Common Elements or the appurtenances thereto.

23. Copy of Declaration to New Members. The Board shall give each new Owner of a Unit a copy of this Declaration and any and all amendments hereto within sixty (60) days notice of the conveyance of a Unit to such new Owner. However, the failure of the Board to provide such copy shall not relieve the new Owner from complying with this Declaration nor waive any of the rights, conditions or restrictions stated herein or create any liability on the part of the Association, the Board or their agents.

24. Remedies. In the event that any Owner shall fail to comply with the provisions of the Act, this Declaration, the Articles, the Bylaws, or the rules and regulations of the Association, the Association shall have each and all of the rights and remedies provided for in the Act, this Declaration, the Articles, the Bylaws or said rules and regulations, or which may be available at law or in equity and may prosecute any action or other proceeding against such Owner for enforcement of such provisions or foreclosure of its lien and the appointment of a receiver for the Unit, or damages, or injunctive relief, or specific performance, or judgment for payment of money and collection thereof, or

to sell the same as hereinafter provided, or any combination of such remedies or any other and further relief which may be available at law or in equity, all without notice and without regard to the value of such Unit or the solvency of such Owner. The proceeds of any rental or sale shall first be applied to discharge court costs, other litigation costs, including without limitation reasonable attorneys' fees, and all other expenses of the proceeding and sale. The remainder of such proceeds shall be applied first to the payment of any unpaid assessments or other charges and the satisfaction of any other damages, and any balance shall be held by the Association for the payment of any future assessments or other charges. Upon the confirmation of the sale, the purchaser of such Unit shall be entitled to a deed to the Unit and to immediate possession of the Unit and may apply to the court for a writ of possession for the purpose of acquiring such possession. The purchaser at any such sale shall take the Unit sold subject to all of the covenants, conditions and restrictions contained in this Declaration. All expenses of the Association in connection with any such action or proceeding, including court costs and reasonable attorneys' fees and other fees and expenses and all damages, liquidated or otherwise, shall be secured by a lien upon the Unit of such defaulting Owner as provided in paragraph 7 hereof and shall bear interest at the rate of twelve percent (12%) per annum from the date such were incurred.

In addition to the remedies granted to the Association pursuant to this paragraph 24, in the event that any Owner or the Association shall fail to comply with the provisions of the Act, this Declaration, the Articles, the Bylaws, or the rules and regulations of the Association, any Owner shall have each and all of the rights and remedies provided for in the Act, this Declaration, the Articles, the Bylaws or said rules and regulations or which may be available at

law or in equity and may prosecute any action or other proceeding against such Owner or the Association for the enforcement of such provisions, injunctive relief and/or specific performance.

Notwithstanding any provision of this Declaration to the contrary, any breach of any of the covenants, conditions, restrictions, reservations and servitudes provided for in this Declaration, or any right of reentry by reason thereof, shall not defeat or adversely affect the lien and/or rights of any Mortgagee except as herein expressly provided, each and all of such covenants, conditions, restrictions, reservations and servitudes shall be binding upon and effective against any lessee under any Lease or against any Owner of any Unit whose title thereto is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

25. Amendment. The provisions of this Declaration may be changed, modified or amended by an instrument in writing setting forth such change, modification or amendment, signed by Owners of Units to which not less than ninety percent (90%) of the undivided ownership of the Common Elements is appurtenant and acknowledged during the first twenty (20) years from the date of recordation of this Declaration and thereafter signed by Owners of Units to which not less than seventy-five percent (75%) of the undivided ownership of the Common Elements is appurtenant and acknowledged provided, however, that so long as any Class B membership remains outstanding, the Veterans Administration, shall have consented to any such change, modification or amendment and provided further, that seventy-five percent (75%) of all Eligible Mortgage Holders shall have consented to any change, modification or amendment which establishes, provides for, governs or regulates any of the following:

- (1) Voting;

(2) Assessments, assessment liens or subordination of such liens;

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

(4) Responsibility for maintenance and repair of the Common Elements and the Units;

(5) Reallocation of interests in the Common Elements or rights to the use of the Common Elements;

(6) Boundaries of any Unit;

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

(8) Subject to the provisions of the Act, expansion or contraction of The Mews on Twenty-Eighth Street or the addition, annexation or withdrawal of property to or from The Mews on Twenty-Eighth Street;

(9) Insurance or fidelity bonds;

(10) Leasing of Units;

(11) Imposition of any restrictions on the right of a Unit Owner to sell, transfer, or otherwise convey such Owner's Unit;

(12) Any decision by the Association to establish self management if professional management has been previously required by an Eligible Mortgage Holder;

(13) Restoration or repair of the Property after damage, destruction or condemnation in a manner other than as provided in paragraph 10.2 hereof;

(14) Subject to the provisions of the Act, any action to terminate the horizontal property regime created hereby after substantial destruction or condemnation occurs;

(15) Any provisions which are for the express benefit of Mortgage Holders, Eligible Mortgage Holders or Eligible Insurers or Guarantors.

Any Eligible Mortgage Holder who receives a written request to approve any change, modification or amendment which does not require the consent of seventy five percent

(75%) of all Eligible Mortgage Holders and who does not notify the requesting party in the manner provided in paragraph 26 hereof within thirty (30) days after receipt of such request shall be deemed to have approved such change, modification or amendment.

Notwithstanding anything contained herein to the contrary, if the Act, this Declaration, the Articles or the Bylaws require the consent or agreement of the Owners of Units to which a specified percentage of the undivided interest in the Common Elements is appurtenant and/or any other persons having any interest in the Property for any such amendment or for any action specified in the Act or this Declaration, then any instrument so amending this Declaration or any provision hereof or providing for such action shall be signed by the Owners of not less than such specified percentage. Any such change, modification or amendment accomplished under any of the provisions of this paragraph 25 shall be effective upon recording of the instrument providing therefor signed and acknowledged as provided herein.

26. Notices. Notices provided for in the Act, this Declaration, the Articles or the Bylaws shall be in writing and shall be mailed postage prepaid if to the Association or the Board addressed to the address to which payments of assessments are then sent and if to an Owner addressed to his Unit. The Association or the Board may designate a different address or addresses to which notices shall be sent from time to time by giving written notice of such change of address to all Owners. Any Owner may also designate a different address or addresses to which notices shall be sent by giving written notice of his change of address to the Association. Notices shall be deemed delivered five (5) days after being deposited properly addressed in the United States mail, postage prepaid, or immediately upon delivery in person.

Upon written request to the Board, which written request specifies an address to which notices may be sent, any Mortgagee shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners of the Unit subject to the Mortgage held by such Mortgagee.

27. Severability. If any provision of this Declaration, the Articles, the Bylaws or the rules and regulations of the Association, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of this Declaration, the Articles, the Bylaws or the rules and regulations of the Association, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstance shall not be affected thereby, and the remainder of this Declaration, the Articles, the Bylaws or the rules and regulations, shall remain in full force and effect as if such invalid part were never included therein, and such invalid part shall be promptly amended as herein provided or reformed by such court so as to implement the intent thereof to the maximum extent permitted by law.

28. Perpetuities and Restraints on Alienation. If any of the easements, privileges, covenants, interests or rights created by this Declaration would otherwise be unlawful, void or voidable for violation of the rule against perpetuities, then such shall continue in existence until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States, Ronald W. Reagan, or the Governor of Arizona, Bruce E. Babbitt.

29. Rights and Obligations. Each grantee of Declarant, by the acceptance of a deed of conveyance, each purchaser under any agreement of sale within the meaning of

A.R.S. §33-741, by execution of such agreement for sale and each Mortgagee by the acceptance of any instrument conveying any interest in the Property as security for the performance of an obligation, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land and equitable servitudes and shall be binding upon and shall inure to the benefit of any grantee, purchaser or any person having at any time any interest or estate in the Property or the Common Elements in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument of transfer, and each such grantee shall be entitled to bring, and shall be subject to, an action for the recovery of damages, or for injunctive relief, or both, resulting from any breach of any such provisions.

30. Waiver. Any right or remedy provided for in this Declaration shall not be deemed to have been waived by any act or omission, including without limitation any acceptance of payment or partial performance or any forbearance, except by an instrument in writing specifying such right or remedy and executed by the person against whom enforcement of such waiver is sought.

31. Utility Easements. Notwithstanding any other provisions hereof, there is hereby created a blanket non-exclusive easement upon, across, over and under the Property (other than the interior of the Units) and the Common Elements for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including by way of illustration,

but not of limitation, water, sewer, gas, telephone, electricity, television cable and communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Common Elements and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of the Buildings; provided, that no such utility and service line or system may be installed or relocated on the Common Elements except as initially planned and approved by Declarant or as thereafter approved by the Board. This easement shall in no way affect any other previously recorded easements which affect the Property.

32. Protection of Eligible Mortgage Holders. All Eligible Mortgage Holders and Eligible Insurers and Guarantors shall be entitled to written notification by the Association upon the commencement of any eminent domain or condemnation proceedings against all or any part of the Property or of substantial damage to or destruction of any part of the Property. Upon written request, all Eligible Mortgage Holders and Eligible Insurers and Guarantors shall have the right (i) to examine all books and records of the Association during normal business hours; and (ii) to receive an audited financial statement of the Association as soon as available and in any event within ninety (90) days following the end of any fiscal year of the Association; (iii) to receive written notice of all meetings of the Unit Owners and to designate a representative to attend all such meetings; (iv) to receive written notice of any default by any Mortgagor in the performance of any obligation by such Mortgagor under this Declaration or the Articles and Bylaws of the Association which default is not cured by such Mortgagor within sixty (60) days of the occurrence of such default; (v) to receive written notice of any lapse, cancellation or material modification of any insurance

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policy or fidelity bond maintained by the Association; and (vi) to receive written notice of any proposed action which would require the consent of Eligible Mortgage Holders holding Mortgages on Units to which a specified interest in the Common Elements is appurtenant as set forth in this Declaration. With respect to audited financial statements furnished pursuant to this paragraph, such statements shall be prepared at the cost of the Association.

33. Professional Management Agreement. Any Agreement for professional management of the Property and the Common Elements or any contract for services to be performed by the Declarant for termination by the Association without cause and without payment of a termination fee or penalty on thirty (30) days written notice, and no such contract or agreement shall be of a duration in excess of one (1) year, renewable by agreement of the parties for successive one (1) year periods.

IN WITNESS WHEREOF, The Urban 2000 Corporation, an Arizona corporation, has executed this instrument as of this 28th day of March, 1985.

THE URBAN 2000 CORPORATION,
an Arizona corporation

By Thomas J. [Signature]
Its President

STATE OF ARIZONA)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 28th day of March, 1985, by Thomas J. [Signature], the PRESIDENT of THE URBAN 2000 CORPORATION, an Arizona corporation, for and on behalf of such corporation.

[Signature]
Notary Public

