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DECLARATION OF HORIZONTAL PROPERTY REGIME
AND
EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
JOSHUA VILLAGE CONDOMINIUMS

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EXHIBITS

EXHIBIT A Legal Description of Real
 Property Submitted to
 Horizontal Property Regime

EXHIBIT B Legal Description of Expansion
 Property

Unofficial Document

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DECLARATION OF HORIZONTAL PROPERTY REGIME
AND
EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
JOSHUA VILLAGE CONDOMINIUMS

This Declaration is made as of this 20th day of December, 1985, by TOWNE CHANDLER JOINT VENTURE, a joint venture formed under the Arizona Uniform Partnership Act (hereinafter referred to as "Declarant").

WHEREAS, Declarant is the owner of certain real property situated in City of Chandler, County of Maricopa, State of Arizona, as more particularly described on Exhibit A attached hereto.

WHEREAS, Declarant also desires to establish and impose upon the property certain mutual covenants, conditions, restrictions, easements and charges under a general plan of improvement for the benefit of the property and the owners thereof.

Unofficial Document

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements and charges, all of which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all persons having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1. As used herein, unless the context otherwise requires:

1.1 "Act" means Sections 33-551 through 33-561, Arizona Revised Statutes, as the same may be amended from time to time.

1.2 "Articles" means the articles of incorporation of the Association, as the same may be amended from time to time.

1.3 "Association" means "Joshua Village Condominium Homeowners Association", an Arizona nonprofit corporation, its successors and assigns.

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1.4 "Board" means the Board of Directors of the Association.

1.5 "Building" means the building(s) to be constructed on the Property as shown on the Plat.

1.6 "Bylaws" means the bylaws of the Association, as the same may be amended from time to time.

1.7 "City" means the City of Chandler, Arizona.

1.8 "Common Elements" means the "general common elements" as defined in Section 33-551, Arizona Revised Statutes, but excluding all improvements constituting a part of any Unit as provided herein.

1.9 "Condominium Constituent Documents" means this Declaration, the Articles, the Bylaws, the Plat and any rules and regulations of the Association, as each may be amended from time to time.

1.10 "Declarant" means the above named Towne Chandler Joint Venture, a joint venture formed under the Arizona Uniform Partnership Act, and any other person or persons to whom the Declarant's rights, powers or privileges under this Declaration may be hereafter assigned by recorded instrument other than as security for the performance Unofficial Document of the obligation.

1.11 "Declaration" means this "Declaration of Horizontal Property Regime and Easements, Covenants, Conditions and Restrictions for Joshua Village Condominiums", as the same may from time to time be amended.

1.12 "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same property.

1.13 "First Mortgagee" means the Mortgagee secured by a First Mortgage.

1.14 "Mortgage" means any recorded instrument given in good faith and for valuable consideration which is not a fraudulent conveyance under Arizona law as security for the performance of an obligation, including without limitation, deeds of trust, but shall not include any instrument creating or evidencing solely a security interest in personal property arising under the Uniform Commercial Code.

1.15 "Mortgagee" means the holder of a promissory note or other obligation secured by a Mortgage.

1.16 "Mortgagor" means the person executing a Mortgage.

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1.17 "Occupant" means a person or persons, other than an Owner, in lawful possession of a Unit.

1.18 "Owner" means the person or persons in which fee simple title to any Unit, whether or not subject to any Mortgage, is vested of record, but excluding those having such interest merely as security for the performance of an obligation. In the case of a Unit the fee simple title to which is vested of record in a trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., the "Owner" shall be deemed to be the trustor, and in the case of a Unit the fee simple title to which is vested of record in the seller pursuant to Arizona Revised Statutes, Section 33-741 et seq., the "Owner" shall be deemed to be the buyer.

1.19 "Person" means an individual, corporation, partnership, trustee or other entity legally capable of holding title to real property.

1.20 "Plat" means the plat showing the Property submitted to the horizontal property regime as recorded November 22, 1985, in Book 291 of Maps, page 7, in the official records of Maricopa County, Arizona, as the same may be amended from time to time.

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1.21 "Project" means the condominium development to be constructed on the Property.

1.22 "Property" means the parcel of real property described on Exhibit A to this Declaration and submitted to the Regime.

1.23 "Record", "recorded" or "recording" means the records of or recording in the office of the County Recorder of Maricopa County, Arizona.

1.24 "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Unit.

1.25 "Single Family Residence" means a Unit used as a residence for a Single Family.

1.26 "Regime" means the Joshua Village Condominiums horizontal property regime created by this Declaration.

1.27 "Servicer" means the person or entity servicing a First Mortgage.

1.28 "Unit" means one or more rooms situated in a Building comprising a part of the Property and designed or in-

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tended for independent, residential use as permitted hereunder and as set forth on the Plat, each of which Units shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat and as further described herein. A Unit is an "apartment" within the meaning of Section 33-551(1), Arizona Revised Statutes, and includes all rights appurtenant to such Unit and an undivided interest in the Common Elements as set forth in Section 3.5 of this Declaration.

ARTICLE II

CREATION OF CONDOMINIUM REGIME

2.1 Submission of Property. Pursuant to the Act, Declarant hereby submits and subjects the Property to a horizontal property regime to be hereafter known as Joshua Village Condominiums, and does hereby declare that all of the Units shall be owned, leased, sold, conveyed and encumbered or otherwise held or disposed of subject to the easements, covenants, conditions and restrictions of this Declaration.

ARTICLE III

DESCRIPTION OF REGIME, BUILDINGS, UNITS AND COMMON ELEMENTS

3.1 Regime Description. The Joshua Village Condominiums horizontal property regime shall be constituted of the Units and the Common Elements.

3.2 Unit Description. The cubic content space of each Unit shall consist of, and be measured by, the area within the Unit's upper, lower and lateral boundaries as shown and described on the Plat and described hereinafter. Each Unit's upper boundary is a plane (extending to the lateral boundaries) which corresponds with the interior finished, but undecorated, surface of the ceiling of the Unit, and each Unit's lower boundary is a plane (extending to the lateral boundaries) which corresponds with the interior finished, but undecorated, surface of the floor of the Unit. Each Unit's lateral boundaries at perimeter Unit walls are the planes (extended to the upper and lower boundaries) of the interior finished, but undecorated, surface of the walls as shown on the Plat.

3.3 Common Elements Description. The Common Elements consist of the Property less the Units described above in Section 3.2, and include, without limiting the generality of the foregoing, the following:

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(a) Roofs, foundations, columns, girders, studs, joists, beams, supports, unit boundary walls, bearing walls, floors, ceilings, windows, doors outside of Units, and all other structural parts of the Buildings, and any replacements thereto, whether, except as specified to the contrary, any of the foregoing are within Units or without; provided that paint, wallpaper, carpeting, tiles and other such decorative surface coverings or finishes of Common Elements within or on Unit boundaries are not Common Elements but are part of the Unit.

(b) Utility installations serving more than a single Unit, such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, pipes, conduits, wires, tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus and installations existing for common use wherever located on the Property, whether within or without Units.

(c) Landscaped areas, walkways, driveways and parking areas on the Property surrounding the Buildings and the swimming pool or pools and any other recreational areas and equipment on the Property surrounding the Buildings.

3.4 Building Description. The cubic content space of each Building shall consist ^{Unofficial Document} and be measured by, the entire space with the upper, lower and lateral boundaries described as follows: The upper boundary shall be the plane of the top elevation of the Building, the lower boundary shall be the plane of the lowest elevation of the Building as shown or described on the Plat, and the lateral boundaries shall be the exterior of the outside walls and the extension of the plane thereof to the upper and lower Building boundaries, except that where there are patio, balcony, entry or storage areas appurtenant to a Unit, the lateral boundaries shall be the plane of the outer edge of such patio, balcony, entry or storage area.

3.5 Percentage Interest in Common Elements. An undivided percentage interest in the Common Elements shall be appurtenant to each Unit equal to a fraction whose numerator is one and whose denominator is the total number of Units on the Property. This percentage interest is subject to decrease by reason of expansion of the Regime pursuant to Article XV.

ARTICLE IV

HOMEOWNERS' ASSOCIATION

4.1 Formation. A homeowners' association has been, or will be, formed to constitute the Regime's "Council of Co-Owners" as that term is defined in Section 33-551, Arizona Revised Statutes, and, to the extent not reserved to each Owner herein, to serve as the governing body for all of the Owners for the protection, improvement, alteration, maintenance, repair, replacement,

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administration and operation of the Property, the fixing of assessments, payment of expenses, disposition of casualty insurance proceeds and other matters as provided in the Act or the Condominium Constituent Documents. The Association shall not be deemed to be conducting a business for profit of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of the Condominium Constituent Documents.

4.2 Membership. Each Person upon becoming an Owner shall automatically become a member of the Association, with such membership to automatically terminate when such Person ceases to be an Owner. A membership in the Association shall not be transferred, pledged or alienated in any way except as a right appurtenant to the Unit to which it appertains or by intestate succession, testamentary disposition, foreclosure of a Mortgage or other legal process transferring fee simple title to such Unit (and then only to the Person to whom fee simple title is thereby transferred). Notwithstanding the foregoing, in the event an Owner grants an irrevocable proxy or otherwise pledges or alienates the voting right of his or her Unit regarding special matters to a Mortgagee as additional security, then only the vote of such Mortgagee will be recognized in regard to such special matters if a copy of the proxy or other instrument pledging or alienating the vote has been filed with the Board. In the event more than one such instrument is filed, ^{Unofficial Document} the Board will recognize the rights of the first Mortgagee to file, regardless of the priority of the Mortgages themselves. Any attempt to make a prohibited transfer of a membership is void and will not be recognized by or reflected upon the books and records of the Association.

4.3 Classes of Membership; Voting Rights of Classes. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners except the Declarant so long as Declarant is a Class B member. There shall be one (1) vote allocated to each Unit owned by a Class A member. When more than one Person is the Owner of a Unit, all such Persons shall be members and the vote for such members' Unit shall be exercised as they determine among themselves, but in no event shall the vote be split or more than one (1) vote be cast with respect to any such Class A Unit. If the Owners of a Unit are unable to agree how their single vote is to be cast, the vote for such Owners' Unit shall not be counted. If and so long as any Class B membership is outstanding, the Class A memberships shall not be entitled to vote for the election of directors to the Board.

(b) Class B. Declarant and any assigns or successors in interest acquiring all or substantially all of Declarant's rights in the Property shall hold one (1) Class B membership for each Unit owned and shall be entitled to three (3) votes for each

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such Class B membership. Class B votes may be cast in such proportions on any matter as the holder may determine. Class B memberships shall cease and be converted to Class A memberships, without further act or deed, upon the first to occur of the following:

(i) One hundred twenty (120) days following the date when the total votes held by Class A members first equal or exceed the total votes held by Class B members, or

(ii) On January 1, 1991.

Notwithstanding subparagraph (i) above, the Class B memberships shall not be converted to Class A memberships if within the one hundred twenty (120) day period specified in subparagraph (i) Declarant records an instrument giving notice of Declarant's intent to expand the Regime pursuant to Article XV and stating the number of Units planned for construction on the Expansion Property (as defined in Section 15.1), and upon recording of such instrument, the calculation for purposes of determining conversion of Class B memberships to Class A memberships under subparagraph (a) above shall be made on the basis of allocating one (1) Class B membership to Declarant for each of the proposed Units entitling the Declarant for purposes of such calculation to three (3) votes for each of such proposed Units on the Expansion Property; provided, however, if construction of Units on the expansion property is not substantially started within one (1) year following recording of this notice of intention, then the Class B membership shall thereafter be converted to Class A memberships without consideration of any proposed Units on the Expansion Property. If a Mortgagee to whom Declarant assigns as security all or substantially all of Declarant's rights under this Declaration succeeds to the interests of Declarant by virtue of said assignment, the Class B memberships shall not be terminated thereby, and such Mortgagee shall hold the Class B memberships on the same terms as they were held by Declarant pursuant hereto.

4.4 Association Board of Directors. So long as any Class B membership is outstanding, all members of the Board shall be elected by the Class B member. Upon termination and conversion of the Class B memberships in the manner provided in Section 4.3, Declarant shall appoint from among the other Owners a Board to serve until the next annual election of directors. Except for members elected by Declarant, each director must be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership or trust, an officer, partner, trustee or beneficiary of such Owner). If a director ceases to meet such qualifications during his or her term, he or she will thereupon automatically cease to be a director and his or her place on the Board shall be deemed vacant.

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4.5 Board's Determination Binding. The Board's determination shall be final and binding on each and all Owners with respect to any dispute or disagreement between Owners relating to the Property or any question of interpretation or application of the provisions of Condominium Constituent Documents.

4.6 Action by Owners. To the extent permitted by the Act or as may be required by law, all actions required or permitted to be taken by the Owners acting as a Council of Co-Owners for the Regime shall be taken by the members of the Association acting as such Council of Co-Owners by and through the Association's officers.

4.7 Additional Provisions in Articles and Bylaws. The Articles and Bylaws may contain any provision relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents and members not inconsistent with law or this Declaration.

4.8 Indemnification. Every director and every officer of the Association shall be ^{Unofficial Document} indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees, reasonably incurred by or imposed upon him or her in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of being or having been a director or officer of the Association, or any settlement thereof, whether or not he or she is a director or officer at the time such expenses are incurred, provided that the Board must first determine, in good faith, that such officer or director did not act, fail to act or refuse to act with gross negligence or fraudulent or criminal intent in the performance of his or her duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such directors or officers may be entitled by law.

4.9 Granting of Easements. The Board is authorized and empowered to grant from time to time and for such consideration, if any, as the Board may deem appropriate such licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains and other public utility purposes (including cable communication) as may be reasonably necessary for the orderly maintenance, preservation, enjoyment and operation of the Property, provided that any damage to the Common Elements or a Unit resulting from the exercise of any such right shall be promptly repaired by the Association as a common expense.

4.10 Books and Records. The Board at all times shall keep, or cause to be kept, true and correct financial records for the Association in accordance with generally accepted accounting principles consistently applied showing in reasonable detail all receipts from assessments or other sources and all disbursements of funds. The Association shall make available to all

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Owners, First Mortgagees, servicers and insurers of First Mortgages current copies of the Condominium Constituent Documents and other books, records and financial statements of the Association. The Association also shall make available to prospective Unit purchasers current copies of the Condominium Constituent Documents and the most recent annual audited financial statement, if one has been prepared, for the Association. "Available" shall mean available for inspection upon request during normal business hours or under other reasonable circumstances. If requested by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration or Veterans Administration, the Association shall prepare, if one is not already available, and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

4.11 Managing Agent. All rights, powers and duties of the Association or the Board, as provided by law and herein, may be delegated to a managing agent under a management agreement. Any agreement for professional management, or any other contract providing for services of the Declarant or any other person, shall not exceed a term of one (1) year, which term may be renewed by agreement of the parties for successive one (1) year periods. Any such agreement shall provide for termination by either party with or without cause and ^{Unofficial Document} without payment of a termination fee upon ninety (90) days' written notice; provided, however, that the Association may terminate the agreement for cause upon thirty (30) days' written notice. Any decision by the Association to terminate professional management and assume self-management of the Property shall not be effective until approved in writing by three-fourths of the First Mortgagees (based upon one vote for each Mortgage owned).

ARTICLE V

INSURANCE

5.1 Authority to Purchase. The Association, by and through the Board, shall purchase and maintain insurance upon the Property as described in Section 5.2. Provision shall be made for the issuance of certificates of endorsement to any First Mortgagee, and such policies and endorsements, or copies thereof, shall be deposited with the Association. The Board shall deliver a copy of the policies, or by and through its agent advise the Owners of the coverage of said policies, to permit the Owners to determine which particular items are included within the coverage so that each Owner may obtain such additional insurance as he or she may desire. Without limiting the generality of the foregoing, each Owner shall be responsible for providing insurance on the contents of such Owner's own Unit, including the decorating, furnishings and personal property therein, his or her personal liability to the extent not covered by the liability insurance

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maintained by the Association and any other insurance the Owner may desire; provided, however, no Owner shall maintain any insurance which would limit or reduce the insurance proceeds otherwise payable under the casualty insurance maintained by the Association.

5.2 Coverage. The Association shall maintain and pay for policies of insurance as follows:

(a) A multi-peril type policy providing, as a minimum, fire and extended coverage, and all other coverage in kinds and amounts customarily acquired or required for condominium projects similar in construction, location and use to the Regime covering all of the Common Elements (except land, foundation, excavation and other items normally excluded from coverage), including, without limitation, fixtures and Building service equipment to the extent they are part of the Common Elements as well as common personal property and supplies, sprinkler leakage (if fire sprinkler systems are installed in the Buildings), debris removal, vandalism, malicious mischief, and windstorm and water damage, in an amount not less than 100% of the current replacement cost of the insurable Common Elements (based upon replacement cost as determined at least ^{Unofficial Document} once every two years by a qualified insurance appraiser selected by the Board). An "agreed amount and inflation guard" endorsement must be added to the policy, if available, and a construction code endorsement [such as a "demolition cost" endorsement, a "contingent liability from operation of building laws" endorsement and an "increased cost of construction" endorsement] must be added to the policy if the Common Elements are subject to a construction code provision which would become operative and require changes to undamaged portions of the improvements comprising the Common Elements thereby imposing significant costs in the event of partial destruction of the Common Elements by an insured peril.

(b) A comprehensive policy of general liability insurance covering all of the Common Elements with limits in amounts as generally required by private institutional mortgage investors for condominium developments similar to the Regime in construction, location and use but in no event less than \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements. Additional coverages shall include such other risks as are customarily covered with respect to condominium developments similar to the Regime in construction, location and use, including but not limited to host liquor liability, contractual and non-owned automobile liability insurance.

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(c) If the Property is located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program ("NFIP"), a policy of flood insurance must be maintained on the Buildings and any other Common Elements covered by the required form of policy (the "insurable property") in an amount not less than the lesser of (i) the maximum coverage available under the NFIP for all Buildings and other insurable property comprising any portion of the Common Elements located within a designated flood hazard area, or (ii) one hundred percent (100%) of current replacement cost of all such Buildings and other insurable property.

(d) Fidelity bond coverage against dishonest acts on the part of officers, directors, trustees, managers, employees, agents or volunteers and other persons responsible for handling funds belonging to or administered by the Association. The fidelity bond must name the Association as the obligee and shall provide coverage in an amount not less than the greater of (i) one-half (1/2) of the Association's estimated annual operating expenses and reserves or (ii) the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of the bond but in no event less than a sum equal to three (3) months' aggregate assessments on all Units plus reserve funds. In connection with such Unofficial Document coverage, an appropriate endorsement shall be added to the bond containing a waiver by the issuer of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions.

(e) A workmen's compensation policy and employer's liability policy, if necessary to meet the requirements of law.

(f) Such other insurance as the Board may determine from time to time to be desirable.

(g) Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such fire, liability and flood insurance and fidelity bonds as may be necessary to satisfy the insurance policy and fidelity bond requirements for condominium developments established from time to time by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, so long as either of the foregoing is a Mortgagee or Owner of a Unit, or by the Federal Housing Administration or the Veteran Administration, so long as either is an insurer of a Mortgage on a Unit or the Owner of a Unit, except to the extent such coverage is not available or has been waived by the Federal National Mortgage Association, the Federal

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Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration.

5.3 Provisions Required. Each insurance policy purchased by the Association shall, to the extent possible, contain the following provisions:

(a) The coverage shall not be brought into contribution or proration with any insurance which may be purchased by Owners or First Mortgagees.

(b) The conduct of any one or more Owners shall not constitute grounds for avoiding liability on any such policies.

(c) There shall be no subrogation with respect to the Association, its agents or employees, Owners and members of their household and their families and employees, and each Mortgagee of all or any part of the Property or of any Unit, and, each policy must contain a waiver of any defenses based on co-insurance or on invalidity arising from the acts of the insured.

(d) Coverage must not be prejudiced by (i) any act or neglect of Owners or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

(e) Coverage may not be cancelled or substantially modified without at least ten (10) days' prior written notice to any and all insureds.

(f) Any policy of property insurance which gives the carrier the right to elect to restore damage in lieu of a cash settlement must provide that such election is not exercisable without the prior written approval of the Association or when in conflict with the provisions contained herein or any requirement of law.

5.4 First Mortgagee Protection.

(a) The Association shall provide upon request of a First Mortgagee a letter to such First Mortgagee wherein the Association agrees to give timely written notice to such First Mortgagee, or the Servicer of the First Mortgage, or any person or entity designated by such First Mortgagee or Servicer, whenever damage to the Common Elements and related facilities exceeds \$10,000.

(b) Each hazard insurance policy shall be written by a hazard insurance carrier which has a financial rating by Best's Insurance Reports of Class A or better, or if such rating service is discontinued, an equivalent rating by a successor

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thereto or a similar such rating service. A carrier with a financial rating of Class V or better is also acceptable if the carrier has a general policyholders rating of at least A.

(c) Each insurance carrier must be authorized by law or licensed to transact business within the State of Arizona.

(d) Policies shall not be utilized where under the terms of the policy or the carrier's charter or bylaws, contributions or assessments may be required or made against an Owner or First Mortgagee or any entity or person purchasing or guaranteeing any First Mortgage or by the terms of the policy or the carrier's charter or bylaws, loss payments are contingent upon action by the carrier's board of directors, policyholders or members.

(e) First Mortgagees may pay overdue premiums, or may secure new insurance coverage on the lapse of a policy, with respect to any insurance required to be maintained by the Association, and First Mortgagees making expenditures therefor shall be owed immediate reimbursement by the Association.

5.5 Non-Liability of Association/Board. Notwithstanding the duty of the Association to obtain insurance coverage as stated herein, neither the Association nor any Board member or other person shall be liable to any Owner or Mortgagee if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection as the Owner may desire.

5.6 Premiums. Premiums on insurance policies purchased by the Association shall be paid by the Association as a common expense, except that premiums for fidelity bonds maintained by a management agent for its officers, employees and agents shall be paid by the managing agent and except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Unit or its appurtenances by an Owner shall be assessed against that particular Owner.

5.7 Insurance Claims. The Association, acting by and through its Board, is hereby irrevocably appointed agent for each Owner and for each holder of any other interest in the Property, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

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5.8 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and Mortgagees, as their interests may appear.

ARTICLE VI

COMMON EXPENSES

6.1 Purposes of Assessments and Description of Common Expenses. The assessments for common expenses provided for in this Declaration shall be used by the Association for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners as may be more specifically authorized from time to time by the Board. Common expenses shall include all of the costs necessary or desirable for the administration and operation of the Regime in conformance with the Condominium Constituent Documents and the performance of all other duties of the Association. The common expenses shall also include such amounts as may be determined by the Board to establish and maintain a reserve fund ^{Unofficial Document} to meet the costs and expenses of maintenance, repairs and replacements of the Common Elements which must be maintained, repaired and replaced on a periodic basis. This reserve fund shall be funded and derived from the annual assessments payable in regular installments and not by means of special assessments or levies. In addition, a working capital fund must be established for the initial months of the Association's operation equal to at least two (2) months' estimated annual assessments for each Unit. Each Unit's share of the working capital fund shall be collected from the Unit purchaser and transferred to the Association at the time of closing of the sale of each Unit and shall be maintained in a segregated account for the use and benefit of the Association; provided, however, if Declarant has previously made as described in the following sentence the contribution for the particular Unit being sold, then the payment being collected from the Unit purchaser shall be paid to Declarant. The contribution to the working capital fund for each Unit unsold one hundred eighty (180) days after the date of the conveyance by the Declarant of the first Unit to a purchaser from Declarant (and with respect to any Units on the Expansion Property, one hundred eighty (180) days after such Units are added to the Regime) shall be paid to the Association by the Declarant. Payment of a Unit's share of the working capital fund shall not relieve an Owner from making regular payments of his or her share of the annual assessments.

6.2 Lien and Personal Obligation of Assessments. Each Owner by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to and does covenant and agree to pay to the Association: (a) annual assessments, (b) special assessments to be established and collected as hereinafter provided, and (c) specific assessments against such Owner's

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Unit as set forth in this Declaration. All assessments, together with interest at such rate as the Board shall determine (but not to exceed a rate equal to the then published prime rate of interest of the Valley National Bank of Arizona plus three percent (3%)), costs, late charges and reasonable attorneys' fees, shall be a lien upon the Unit against which the assessments are made and the personal obligation of the Owner of such Unit at the time the assessments become due and payable. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed in writing by the successor. Assessments shall be paid in such manner and on such dates as may be fixed by the Board, but unless otherwise provided, the assessments shall be paid in monthly installments.

6.3 Rate of Assessment. Each Owner's proportionate share of the common expenses for each Unit owned shall be equal to the Unit's percentage undivided interest in the Common Elements.

6.4 Maximum Annual Assessment. Until January 1 of the calendar year immediately following the calendar year in which occurs the first conveyance (Unofficial Document) of a Unit to an Owner other than Declarant, the maximum annual assessment shall be Eight Hundred and Seventy-six Dollars (\$876.00) per Unit.

(a) From and after January 1 of the calendar year immediately following the calendar year in which occurs the first conveyance of a Unit to an Owner other than Declarant, the maximum annual assessment may be increased each year above the maximum assessment for the previous calendar year without the assent of the members by an amount not more than the sum of (i) estimated increases in utility costs and insurance premiums, and (ii) five percent (5%) of that portion of the previous calendar year's assessment not budgeted for utility costs or insurance premiums.

(b) From and after January 1 of the calendar year immediately following the calendar year in which occurs the first conveyance of a Unit to an Owner other than Declarant, the maximum annual assessment may be increased each year by an amount greater than the sum of (i) estimated increases in utility costs and insurance premiums, and (ii) five percent (5%) of that portion of the previous calendar year's assessment not budgeted for utility costs or insurance premiums, but only with the affirmative vote of two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for such purpose.

(c) The Board shall fix the amount of the annual assessment at an amount not in excess of the maximum against each Unit at least thirty (30) days in advance of each annual assessment and shall send written notice of the annual assessment and of the due dates thereof to every Owner.

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6.5 Special Assessments. In addition to the 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 Elements, including fixtures and personal property related thereto, or for the purpose of defraying, in whole or in part, any deficit between the amount of common expenses paid or to be paid for that year and the amount of annual assessments collected for that year, but if the amount of such special assessment plus the annual assessment levied for that year exceeds the maximum permissible amount of the annual assessment for that year, then such special assessment must first be approved by two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for the purpose of considering the levy of such special assessment.

6.6 Notice and Quorum for Any Action Authorized Under Sections 6.4 and 6.5. Written notice of any meeting called for the purpose of taking any action authorized under Section 6.4 or 6.5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. A certificate duly executed and delivered by an authorized officer of the Association or a duly designated agent of the Association stating the status of assessments on a Unit shall be binding upon the Association as of the date of issuance of the certificate.

6.7 Assessment Estoppel Certificate. Upon written request to the Association by an Owner or a prospective purchaser or Mortgagee, the Association or the Association's duly designated agent shall furnish within a reasonable time a recordable statement setting forth the amount of unpaid assessments, if any, levied against the Unit for which the request is made. The Board may impose a reasonable fee for each statement, and payment of the fee shall be a prerequisite to the issuance of the statement. A certificate duly executed and delivered by an authorized officer of the Association or a duly designated agent of the Association stating the status of assessments on a Unit shall be binding upon the Association as of the date of issuance of the certificate.

6.8 Commencement of Assessments. Annual assessments shall commence as to all Units on the first (1st) day of the month in which a Unit is conveyed to a purchaser from Declarant. Notwithstanding the foregoing provision or any other portion of this