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DECLARATION OF HORIZONTAL PROPERTY REGIME
AND
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
ESTABLISHING AND GOVERNING
GARDEN CLUB CONDOMINIUMS

A PHASED RESIDENTIAL CONDOMINIUM PROJECT
PHOENIX, ARIZONA

DOCUMENT CONSISTS OF 57 pages.

SIGNED ORIGINAL

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TO
DECLARATION OF HORIZONTAL PROPERTY REGIME
AND
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
GARDEN CLUB CONDOMINIUMS

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- EXHIBIT "B" - LEGAL DESCRIPTION OF PARCEL
- EXHIBIT "C" - LEGAL DESCRIPTION OF ADDITIONAL PARCEL

THIS DECLARATION is made as of the date hereinafter set forth by LAWRENCE L. NOEL, dealing with his sole and separate property, (hereinafter referred to as the "Declarant").

R E C I T A L S

(A) Declarant is the fee owner of that certain real property situated in the City of Phoenix, County of Maricopa, State of Arizona, described as Phase One on the Plat attached as EXHIBIT "A" hereto and hereby incorporated by reference (Phase One is hereinafter referred to as the "Parcel");

(B) Declarant desires to submit the Parcel, together with all buildings and improvements now or hereafter constructed on the Parcel, and all easements and rights appurtenant thereto (hereinafter referred to as the "Property"), to a Horizontal Property Regime originally consisting of twenty (20) Condominium Units pursuant to Sections 33-551 through 33-561, Arizona Revised Statutes;

(C) Declarant desires to reserve the right to add all or part of the Additional Parcel (as hereafter defined) and thereby annex a maximum of 72 Condominium Units into the Horizontal Property Regime in accordance with a coordinated development plan;

(D) Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners or Occupants of the Property, certain covenants, conditions, restrictions, easements, rights, privileges, assessments, and liens as set forth herein (hereinafter collectively referred to as the "Restrictions") which shall run with and be a burden upon the Property;

(E) Declarant intends that the Owners, Occupants, Lenders, and all other persons hereinafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interest subject to, this Declaration, which is recorded in furtherance of establishing a general plan of condominium ownership for the Property; and for establishing rules for

the use, occupancy, management, and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property and the quality of life therein;

NOW, THEREFORE, Declarant, as owner of the Property and for the purposes above set forth, declares as follows:

I

DEFINITIONS

As used herein, unless the context otherwise requires:

Section 1.01. "Act" shall mean Sections 33-551 through 33-561, Arizona Revised Statutes, pertaining to Horizontal Property Regimes in the State of Arizona.

Section 1.02. "Additional Parcel" shall refer to that real property situated in the City of Phoenix, County of Maricopa, State of Arizona, consisting of that portion of the Plat (as hereafter defined and attached as Exhibit "A") designated as Phases Two through Twelve, all or part of which may be added to the Property in one or more additional phases by Supplemental Declaration pursuant to the option reserved by Declarant in accordance with ARTICLE XIV hereof. The metes and bounds description of the Additional Parcel is attached as Exhibit "C."

Section 1.03. "Association" shall refer to the GARDEN CLUB HOMEOWNERS ASSOCIATION, INC., whose membership shall include each Owner of a Condominium Unit in the Property, and whose function shall be to serve as the Council of Co-Owners as defined in the Act. The Association will be incorporated under the name of GARDEN CLUB HOMEOWNERS ASSOCIATION, INC., an Arizona non-profit corporation, prior to the conveyance of a Condominium Unit by Declarant.

Section 1.04. "Association Rules" shall mean and refer to the rules and regulations adopted by the Board pursuant to this Declaration and in furtherance of the Bylaws and in accordance with Section 33-561 of the Act.

Section 1.05. "Assessments" shall mean the charges against Owners to defray the Common Expenses as well as

miscellaneous special Assessments, special Assessments for capital improvements, and special Assessments for the purpose of restoring and reconstructing the Property in the event of casualty, all as provided in this Declaration.

Section 1.06. "Board" shall mean the Board of Directors of the Association elected pursuant to the Bylaws and serving as the governing body of the Association.

Section 1.07. "Building" shall mean and refer to each of the principal structures containing Condominium Units which are located or constructed on the Parcel (as well as the principal structures containing Condominium Units which are located or constructed on any part of the Additional Parcel) and which form part of the Property as shown on the Plat, whether or not such structures are composed of one or more floors or stories.

Section 1.08. "Bylaws" shall mean the Bylaws adopted by the Board, pursuant to Section 33-561 of the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.

Section 1.09. "Common Expenses" shall mean the actual and estimated costs for: (a) maintenance, management, operation, repair and replacement of the Common Elements which are maintained by the Association; (b) deficiencies arising by reason of unpaid Assessments; (c) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees; (d) utilities (other than separately metered utilities for the Condominium Units), trash pickup and disposal, gardening, pool service, and other related services; (e) insurance and bonds required by this Declaration or any additional insurance and bonds obtained by the Board in its discretion; (f) the establishment of reasonable reserves as the Board shall deem appropriate in its discretion; (g) other miscellaneous charges incurred by the Association or the Board pursuant to this Declaration, the Bylaws, or Association Rules in furtherance of the purposes of the Association or in discharge of the duties and powers of the

Association.

Section 1.10. "Common Elements" shall mean the entire Property, excluding the Condominium Units.

Section 1.11. "Condominium Unit" shall mean one or more rooms situated in a Building comprising part of the Property, designed or intended for independent use as a dwelling unit, together with the respective fractional interest in the Common Elements, and any exclusive and non-exclusive easements appurtenant thereto. Each Condominium Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat and as further described in Section 3.03 hereof; provided, however, that no structural components of the Building in which each Condominium Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Condominium Unit and forming part of any system serving one or more other Condominium Units or the Common Elements shall be deemed part of a Condominium Unit. "Condominium Unit" shall be synonymous with "Apartment" as defined in Section 33-551 of the Act.

Section 1.12. "Declarant" shall mean Lawrence L. Noel, his successors and assigns. Declarant is expressly intended to include any successor of the foregoing in the fee ownership of the Additional Parcel.

Section 1.13. "Declaration" shall mean this Declaration including all exhibits attached hereto, which are hereby incorporated by reference, and any and all amendments hereof and supplements hereto.

Section 1.14. "Lender" shall mean: (a) an institutional holder of a first mortgage or first deed of trust on a Condominium Unit which is a bank, savings and loan association, insurance company, established mortgage company, or other entity chartered under state or federal law; and (b) any Person who is a holder of a first mortgage or first deed of trust on a Condominium Unit.

Section 1.15. "Occupant" shall mean a Person or Persons, other than an Owner, in possession of a Condominium Unit.

Section 1.16. "Owner" shall mean the Person or Persons who are vested with record title of a Condominium Unit according to the records of the County Recorder of Maricopa County, Arizona; however, Owner shall not include a Person who holds an interest in a Condominium Unit merely as security for the performance of an obligation. Declarant shall be considered the record Owner of any Condominium Unit after the recordation of this Declaration or any Supplemental Declaration but prior to its initial conveyance by Declarant.

Section 1.17. "Parcel" shall refer to the single parcel of real property situated in the City of Phoenix, County of Maricopa, State of Arizona, designated as Phase One on the attached Exhibit "A" hereto and hereby incorporated by reference, and which constitutes the original real property committed to the Horizontal Property Regime under this Declaration. The metes and bounds description of the Parcel is attached as Exhibit "B."

Section 1.18. "Plat" means the plat of survey of the Property submitted to this Horizontal Property Regime and showing thereon seventy-two (72) Condominium Units, each of which is identified by a number. A copy of the Plat is attached hereto as EXHIBIT "A." The original Plat is recorded in Book 269 of Maps, Page 27, in the records of the County Recorder of Maricopa County, Arizona. "Plat" shall also refer to any additional plat which may be recorded with any Supplemental Declaration.

Section 1.19. "Person" shall mean a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

Section 1.20. "Property" shall mean the Parcel, and any part of the Additional Parcel added pursuant to ARTICLE XIV hereof, together with all the Buildings, improvements and

permanent fixtures located thereon, and all easements and rights appurtenant thereto.

Section 1.21. "Restrictions" shall mean the covenants, conditions, assessments, easements, liens and restrictions set forth in this Declaration.

Section 1.22. "Supplemental Declaration" shall mean a written instrument recorded in the records of the County Recorder of Maricopa County, Arizona, which refers to this Declaration and which amends, modifies, or supplements this Declaration in accordance with its terms.

II

CREATION OF THE HORIZONTAL PROPERTY REGIME

Section 2.01. Submission. Declarant hereby submits and subjects the Property to a Horizontal Property Regime pursuant to the Act, and in furtherance thereof, makes and declares the Restrictions contained in this Declaration, and Declarant hereby declares and agrees that the Property and all of the Condominium Units shall be held, conveyed, transferred, sold, leased, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of Declarant, the Association, and each Owner, including their respective heirs, executors, administrators, personal representatives, successors and assigns.

III

DESCRIPTION OF THE BUILDINGS, THE CONDOMINIUM

UNITS, AND THE COMMON ELEMENTS

Section 3.01. Name. The Property shall be know as "~~GARDEN CLUB CONDOMINIUMS.~~"

Section 3.02. Cubic Content Space of the Buildings. A description of the cubic content space of each Building containing Condominium Units with reference to its location on the

Parcel is set forth on the Plat. The horizontal boundaries shall be the planes of the top exterior surface elevations of the Buildings, as shown on the Plat, and the planes of the base elevations of the Buildings as shown on the Plat. The vertical boundaries shall be the exterior surface of the outside walls located on the perimeter lines of the respective Buildings as shown on the Plat.

Section 3.03. Cubic Content Space of Condominium Units. The cubic content space of each of the Condominium Units within the Buildings is set forth on the Plat. The horizontal boundaries of each Condominium Unit shall be the interior surface of the finished but undecorated ceiling and the interior surface of the finished but undecorated floor of the Condominium Unit as shown on the Plat. The vertical boundaries of each Condominium Unit shall be the interior surface of the finished but undecorated walls located on the perimeter lines of the respective Condominium Units as shown on the Plat.

Section 3.04. Description of Common Elements. The Common Elements shall consist of the entire Property, excluding the Condominium Units.

Section 3.05. Fractional Interest of each Condominium Unit in the Horizontal Property Regime. All Condominium Units are intended to be of the same size and the designation of the fractional interest which each Condominium Unit bears to the entire Horizontal Property Regime, which fractional interest shall constitute the fractional interest of each Owner in the Common Elements, shall be a fraction, the numerator of which will be one (1) and the denominator of which shall be the number of Condominium Units subject to this Declaration.

Section 3.06. Maintenance by Owners. Each Owner shall ~~furnish and be responsible~~ be responsible for, at his own expense, all of the ~~maintenance, repairs,~~ repairs, and replacements within his own Condominium Unit. Such obligation shall include, without limitation, the following: (a) the maintenance of all interior doors, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles,

wallpaper, paint, finished flooring, and any other materials constituting the finished surfaces of floors, ceilings, or interior walls (all other components making up the construction of the walls, floors, or ceilings are part of the Common Elements); (b) repair and replacement of all window and door glass and related screens (including sliding glass doors for patios or balconies) and the interior and exterior cleaning of such window and door glass; (c) the maintenance of, in an open and unobstructed condition, all sewer and drainage pipes, water and other utility lines serving an Owner's respective Condominium Unit between the points at which the same enter the respective Condominium Unit and the points where the same join the utility lines serving other Condominium Units; and (d) maintenance, replacement, repair and restoration of all of the following which service an Owner's Condominium Unit exclusively: lighting fixtures, plumbing fixtures, stoves, refrigerators, hot water heaters, air conditioning and heating units wherever located (including compressors and condensers) and such other appliances, fixtures, and decorations as an Owner may install. An Owner shall also keep his garage, his patio or balcony area, and his storage space or spaces in a clean, sanitary, and attractive condition. An Owner may make non-structural alterations within his Condominium Unit with Association approval, which approval shall not be unreasonably withheld, but an Owner shall not make any structural or exterior alterations of the Common Elements.

Section 3.07. Maintenance by Association. The Association shall maintain and care for the Common Elements and the improvements thereon. Wherever such maintenance and care, other than ordinary wear and tear, is made necessary by the misuse of an Owner or such Owner's guests or invitees, the cost of such maintenance and repair shall be added to and become a part of the assessment to the Condominium Unit owned by such Owner and payable upon demand.

Section 3.08. Utilities. All utilities for individual Condominium Units, except water and sewer service charges (which

will be metered collectively and paid by the Association as a Common Expense item), will be metered separately to each Condominium Unit and such utility charges shall be the responsibility of the respective Owners.

IV

MANAGEMENT

Section 4.01. Association. The Association will be formed so as to constitute the "Council of Co-Owners" as that term is defined in the Act to serve as the governing body for all Owners and shall make provisions for the maintenance, repair, replacement, administration and operation of the Common Elements, assessment of expenses, payment of losses, division of profits, acquisition of hazard insurance and disposition of such hazard insurance proceeds, and other matters as provided in the Act, the Declaration, and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the Declaration and the Bylaws.

Section 4.02. Membership. Each Owner shall be a member of the Association so long as he shall be an Owner and such membership shall automatically terminate when he ceases to be an Owner, and upon the transfer of such ownership interest, the new Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

Section 4.03. Voting. The Association shall have two (2) classes of voting membership.

Class A. Class A Members shall be all Owners other than Declarant. Class A Members shall be entitled to one (1) vote for each Condominium Unit owned. When more than one Person owns an interest in a Condominium Unit, each such Person shall be a member of the Association but the vote for such Condominium Unit shall be exercised as the co-Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Condominium Unit. The Association shall not be required to recognize the vote or written assent of any such co-Owner

except the vote or written assent of the co-Owner designated in a writing executed by all of such co-Owners and delivered to the Association.

Class B. The Class B Member shall be Declarant. The Declarant shall be entitled to three (3) votes for each Condominium Unit which it owns; provided, however, the Class B Membership shall cease and be converted into Class A Membership not later than 120 days after the happening of whichever of the following is first in time:

(a) when the total votes outstanding in the Class A Membership equal or exceed the total votes outstanding in the Class B Membership; or

(b) on the third anniversary of the first conveyance of a Condominium Unit by Declarant to an Owner; provided, however, if the Property is expanded as provided in this Declaration, the third anniversary under this sub-paragraph (b) shall relate to the third anniversary of the first conveyance of a Condominium Unit in the then most recent phase of the Property; and further provided, however, the Class B Membership may be reinstated upon the expansion of the Property in the event the Class B Membership may have been previously converted to Class A Membership as provided in this Section 4.03.

Upon the termination of the voting rights of the Class B Member pursuant to either (a) or (b) above, the voting rights of the Class B Member shall automatically be converted to the voting rights of a Class A Member.

Notwithstanding anything herein to the contrary, the Class B Membership shall permanently cease and be converted to Class A Membership not later than a date five (5) years after the date of the conveyance by Declarant of the first Condominium Unit in the Property.

Section 4.04. Board of Directors. The governing body of the Association shall be the Board of Directors elected pursuant to the Bylaws. The Board shall consist of not less than three (3) members and not more than seven (7) members. The Board

may act to increase or decrease its membership within the afore-said limits and to fill vacancies in its membership for the unexpired portion of any term. Except as otherwise provided in this Declaration, the Bylaws, or Association Rules, the Board may act in all instances on behalf of the Association. The Board shall adopt the Bylaws and Association Rules.

Section 4.05. Qualification of Directors. Except for Board members designated by Declarant, each Director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, partnership, or trust, a Director may be an officer, partner, trustee or beneficiary of such Owner). If a Director shall cease to meet such qualifications during his term, he will thereupon cease to be a Director and his place on the Board shall be deemed vacant.

Section 4.06. Independent Manager. The Board may employ a responsible person or entity as manager to manage, operate and maintain the Common Elements, with all of the administrative functions and such other powers and duties as the Board may delegate from time to time and for such fees as the Board may establish consistent with other provisions of this Declaration. Any agreement for management of the Property shall be in writing and shall provide for termination by either the Association or the management agent for cause and termination without cause and without payment of a termination fee upon written notice of not less than thirty (30) nor more than ninety (90) days and the term of such agreement shall not exceed one (1) year, renewable by written agreement of the parties for successive periods of one (1) year.

Section 4.07. Action by Owners. The Board may not act on behalf of the Association to amend or terminate this Declaration. The Owners, acting by a majority of the voting power of the Association at a general or special meeting may, subject to the provisions of Section 5.13 hereinbelow, reject any act of the Board in fixing the annual budget, general Assessments, or special Assessments; provided such veto is exercised within

thirty (30) days after the Board action.

Section 4.08. Annual Meeting. The first meeting of the Association shall be held not later than one hundred twenty (120) days after the first conveyance of a Condominium Unit from Declarant to an Owner is recorded. Thereafter, the annual meeting shall be held as provided in the Bylaws.

Section 4.09. Right of Association to Enter Condominium Units. The Association, acting through the Board or its duly authorized agent, shall have the right at all times, upon reasonable notice (and at any time in case of an emergency), to enter upon or in any Condominium Unit to make repairs, or to abate any infractions or correct any violation of any of the Restrictions herein set forth, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such assessment to be secured by the lien provided in Section 5.01.

Section 4.10. Reserve Fund. The Association shall maintain an adequate reserve fund for maintenance, repairs and replacement of those Common Elements that must be replaced on a periodic basis, and such reserve shall be funded as part of monthly Assessments. ^{and} ~~Upon~~ the Declarant ~~first~~ conveying a Condominium Unit to an Owner, the Association shall establish a working capital fund in an initial amount equal to two (2) months' Assessments for each and all of the Condominium Units then completely constructed. Notwithstanding anything herein to the contrary, and in addition to any impound of assessments required by an Owner's Lender, and not in lieu of an Owner's obligations to pay current monthly assessments, each Owner shall ~~pay to the Association upon the close of the escrow pursuant to~~ ~~which the Owner's Condominium Unit is conveyed by Declarant to~~ ~~the Owner, a sum equal to the two (2) months' assessments as a~~ ~~contribution to the Association's working capital fund.~~ Upon such payment by an Owner other than Declarant, the Association shall refund to Declarant a sum equal to the two (2) months'

Assessments Declarant had paid to the Association in respect to such conveyed Condominium Unit.

Section 4.11. Association Rules. The Board shall adopt Association Rules in furtherance of the Bylaws for the regulation and operation of the Property, including recreational facilities. The Board shall have the right to exclude from the use of the recreational facilities any Owner who is delinquent in the payment of any Assessment levied in accordance with ARTICLE V hereof.

Section 4.12. Architectural Control. No building, fence, wall, antenna, tower, awning, patio enclosure, or other structure of any kind or character shall be commenced, erected, or maintained upon the Property, nor shall any exterior addition thereto, or change or alteration therein, be made until the plans and specifications showing the nature, kind, color, shape, height, materials, location and other material attributes of the same shall have been submitted to and approved in writing by the Board as to harmony of external design and location in relation to the Property as a whole and to surrounding structures and topography.

V

COVENANT FOR ASSESSMENTS

Section 5.01. Creation of Lien and Personal Obligation for Assessments. Each Owner, including Declarant to the extent Declarant is an Owner as defined herein, of any Condominium Unit, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree to pay to the Association, such Assessments to be fixed, established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection as hereinafter provided, shall be a continuing lien upon the Condominium Unit against which each such

Assessment is made. Each such Assessment, together with such interest, late charges, costs and attorneys' fees, shall also be the personal obligation of the Owner of such Condominium Unit at the time the Assessment becomes due. The personal obligation shall not pass to the successor in title of an Owner unless expressly assumed by such successor.

Section 5.02. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purposes of promoting the health, safety and welfare of the Owners, the management, maintenance, care, preservation, and protection of the Property, enhancing the quality of life in the Property and the value of the Property including, without limitation, the improvement and maintenance of the services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements, or in furtherance of any other duty or power of the Association.

Section 5.03. Regular Assessments.

(a) Not later than thirty (30) days prior to the beginning of each fiscal year of the Association, the Board shall distribute to each Owner a pro forma operating statement or budget for the upcoming fiscal year which shall, among other things, estimate the total Common Expenses to be incurred for such fiscal year. The Board shall, at that time, subject to the provisions of Sections 5.03(b) hereinbelow, determine the amount of the regular Assessment to be paid by each Owner. Each Owner shall thereafter pay to the Association his regular Assessment in equal monthly installments on the first day of each month. In the event the Board shall, subject to the provisions of Sections 5.03(b) hereinbelow, determine that the estimate of the total charges for the current year is, or will become, inadequate to meet all the Common Expenses for any reason, it shall then immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the Common Expenses, and determine the revised amount of the regular Assessment against each Owner, and the date or dates when due.

(b) Increases in the maximum annual regular Assessment shall be subject to the following provisions:

(i) Until the first day of the fiscal year of the Association immediately following the conveyance of the first Condominium Unit to an Owner, the maximum annual regular Assessment shall be Five Hundred and Eighty-Eight and No/100 Dollars, (~~\$588.00~~) per Condominium Unit. *21900 pm*

(ii) From and after the first day of the fiscal year of the Association immediately following the conveyance of the first Condominium Unit to an Owner, the Board may increase the maximum annual regular Assessment each fiscal year above the maximum annual regular Assessment for the previous fiscal year, without a vote of the Owners, to the greater of:

(1) an amount five percent (5%), above the previous fiscal year's maximum annual regular Assessment, or

(2) an amount determined by multiplying the previous fiscal year's maximum annual regular Assessment by a fraction, the numerator of which is the Consumer Price Index, U.S. City Average, All Items, 1967 = 100, for Urban Wage Earners and Clerical Workers, published by the United States Department of Labor, Bureau of Labor and Statistics, or successor index published by the federal government or any agency thereof, and selected by the Board (the "Index") for the first month of the current fiscal year of the Association and the denominator of which is the Index for the first month of the previous fiscal year of the Association.

(iii) From and after the first day of the fiscal year of the Association immediately following the conveyance of the first Condominium Unit to an Owner, the maximum annual regular Assessment may be increased above the limits specified in Section 5.03(b)(ii) hereinabove by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

(iv) The Board may fix the maximum annual regular Assessment at an amount not in excess of the limits specified hereinabove.

Anything in this Section 5.03 to the contrary notwithstanding, the limitations of Section 5.03(b) shall not be applicable with regard to any increase in the maximum annual regular Assessment to the extent such increase is for the purpose of the Association collecting from the Owners either or both water utility service fees or sewer utility service fees.

Section 5.04. Capital Improvement Assessments. In addition to regular Assessments, the Board may, in any fiscal year, levy a capital improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or replacement (other than due to destruction) of a described capital improvement upon the Common Elements, including the necessary fixtures and personal property related thereto. The Board shall not impose a capital improvement Assessment without the approval of 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 this purpose. All amounts collected as capital improvements Assessments may only be used for capital improvements and shall be deposited by the Board in a separate account to be held in trust for such purposes and said funds shall not be commingled with any other funds of the Association.

Section 5.05. Uniform Rate of Assessment. All Assessments (other than special Assessments) shall be fixed at an equal amount for each Condominium Unit based upon a fraction where the numerator is one and the denominator is the number of Condominium Units in the Property.

Section 5.06. Certificate of Payment. The Association shall, after receipt of written demand, furnish to any Owner liable for Assessments a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Condominium Unit

have been paid and the amount of delinquency, if any. A reasonable charge may be collected by the Board for the issuance of each such certificate. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 5.07. Special Assessments. Special Assessments shall be levied by the Board against a Condominium Unit and its Owner to reimburse the Association for:

(a) costs incurred in bringing an Owner and his Condominium Unit into compliance with the provisions of this Declaration, the Bylaws, or Association Rules;

(b) any other charge designated as a special Assessment in this Declaration, Bylaws, or Association Rules; and

(c) attorneys' fees, interest and other charges relating thereto as provided in this Declaration.

In the event the Association undertakes to provide materials or services which benefit individual Condominium Units and which can be accepted or rejected by individual Owners, an Owner, in accepting such materials or services, agrees that the costs thereof shall be a special Assessment.

Section 5.08. Date of Commencement of Assessments. Regular and other Assessments as to Condominium Units within the Property shall commence as to all such Condominium Units on the ~~first day of the~~ month following the conveyance of the ~~first~~ ~~Condominium Unit by Declarant~~ to an Owner. In the event additional Condominium Units are added by Supplemental Declaration, assessments shall not commence as to such additional Condominium Units until the first day of the month following the conveyance by Declarant of the first Condominium Unit in such phase. Until the Association makes an Assessment, the ^{Noel} ~~Declarant~~ shall pay all Common Expenses of the Property.

Section 5.09. Staging of Assessments for Declarant. Notwithstanding anything herein to the contrary, Declarant shall not be liable for Assessments on uncompleted Condominium Units

until the conveyance of the first Condominium Unit in that respective phase.

Section 5.10. Reduction or Abatement of Regular Assessments. In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may either reduce the amount of the regular Assessments or may abate collection of regular Assessments as it deems appropriate.

Section 5.11. No Offsets. All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation: (i) a claim that the Association is not properly exercising its duties and powers as provided in this Declaration; or (ii) an Owner has made or elects to make no use of the recreational facilities.

Section 5.12. Homestead Waiver. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Arizona now in effect, or in effect from time to time hereafter.

Section 5.13. Notice and Quorum for any Action Authorized under Section 5.03(b)(iii) or Section 5.04. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.03(b)(iii) hereinabove or Section 5.04 hereinabove, 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 Members 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.

VI

EFFECT OF NON-PAYMENT OF ASSESSMENTS AND REMEDIES

Section 6.01. Delinquency. Any Assessment which is not paid when due is delinquent. Whenever an Assessment is delinquent the Board may, at its option, invoke any or all of the sanctions provided for herein.

Section 6.02. Late Charge. If any Assessment is not paid within ten (10) days after it becomes due and payable, the Owner shall be obligated to pay the late charge then provided for in the Bylaws. The amount of such late charge until paid shall constitute part of the Assessment lien as provided for in Section 5.01 of this Declaration.

Section 6.03. Interest. If any Assessment is not paid ~~within thirty (30)~~ days after it becomes due and payable, ~~interest at the rate of twelve percent (12%)~~ per annum may be assessed on the amount owing from the date due until such time as it is paid. The Board may, with the approval of 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 such purpose, impose a different rate of interest.

Section 6.04. Action at Law. The Association may bring an action to recover a delinquent Assessment either personally against the Owner obligated to pay same or, upon compliance with the notice provisions herein, to foreclose the Assessment lien; provided, however, that the Association's choice of one remedy shall not prejudice or constitute a waiver of the Association's right to exercise the other. The costs of preparing and filing the complaint shall be assessed against the delinquent Owner and his Condominium Unit and reasonable attorneys' fees and court costs will thereafter be added to the amount in delinquency (plus interest and/or late charges, if appropriate) in the event that a judgment is obtained by the Association. Each Owner vests

in the Association or its assigns the right and power to bring actions at law and/or lien foreclosures against such Owner for the collection of delinquent Assessments.

Section 6.05. Notice of Lien. No action shall be brought to foreclose an Assessment lien at a time less than thirty (30) days after the date that a certified or registered notice of claim of lien is deposited in the United States Mail, postage prepaid, to the Owner of the applicable Condominium Unit and a copy thereof is recorded by the Association in the office of the County Recorder of Maricopa County, Arizona.

Section 6.06. Foreclosure Sale. Any foreclosure sale provided for in this Declaration is to be conducted in accordance with applicable provisions relating to the foreclosure of realty mortgages in the State of Arizona. The Association, upon approval by a majority vote of the Owners, may through its duly authorized agents have and exercise the power to bid on the Condominium Unit at the foreclosure sale and to acquire, hold, lease, mortgage and convey such Condominium Unit.

Section 6.07. Suspension of Votes. The Board shall suspend for the entire period during which an Assessment remains delinquent the obligated Owner's right to vote on any matter at regular or special meetings of the Association.

Section 6.08. Suspension of Recreational Privileges. The Board is authorized to suspend for the entire period during which an Assessment remains delinquent the obligated Owner's right to the use of the recreational facilities of the Property.

VII

EASEMENTS

Section 7.01. General Easements to Common Elements. Subject to this Declaration and the Association Rules, non-exclusive reciprocal easements are hereby reserved and created for the purpose of support, ingress and egress, access, use and enjoyment in favor of each Owner, upon, across, over, under and through the Common Elements, including the use of all

pipes, wires, ducts, flues, cables, conduits, and public utility lines and recreational facilities, which easements shall be appurtenant to each Condominium Unit. The Association, acting through the Board or its authorized agent, and public utility companies providing service to the Property, shall have non-exclusive easements with the right of access to each Condominium Unit to make inspections, to remove violations, to maintain, repair, replace or effectuate the restoration of the Common Elements accessible in such Unit; provided, however, such rights shall be exercised in a reasonable manner and at reasonable times with prior notification, unless emergency situations demand immediate access.

Section 7.02. Utility Easements. There is hereby created a blanket easement upon, across, over and under the above described property for reasonable ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity. By virtue of this easement it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary equipment on said property and to affix and maintain the necessary electrical and/or telephone wires, conduits, and circuits on, above, across and under the Common Elements, including the unit buildings. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as initially programmed and approved by the Developer of the condominium or thereafter approved by said Developer or the Association's Board of Directors. This easement shall in no way affect any other recorded easement on said premises.

Section 7.03. Easements for Encroachments. If any portion of the Common Elements now encroaches upon any Condominium Unit, or if any Condominium Unit now encroaches upon any other Condominium Unit or the Common Elements, or if any such encroachment shall occur hereafter as a result of the manner in which the

Buildings have been constructed or due to settling, shifting, alteration, replacement, repair, or restoration by Declarant or the Association, a valid easement for encroachment shall exist so long as the Buildings stand.

Section 7.04. Development Easements for Declarant.

Until seven (7) years after the conveyance of the first Condominium Unit to an Owner, there are hereby reserved to Declarant, together with the right to grant and transfer the same to others, including Declarant's sales agents, representatives and assigns, easements and rights upon, across, over, under and through the Common Elements for construction, display (including the use of the Condominium Units as models), maintenance, sales and exhibit purposes (including the use of signs and other advertising devices) in connection with the erection and sale or lease of Condominium Units within the Property; provided, however, that no such use by Declarant or its agents shall otherwise restrict Owners or Occupants in the reasonable use and enjoyment of their Condominium Units. The development easements reserved by Declarant pursuant to this Section 7.04 are intended to benefit any successor to Declarant, including without limitation, any Person who may succeed the Declarant in the ownership of all or any part of the Additional Parcel, and thereafter annex all or any part of the Additional Parcel to the Property in accordance with ARTICLE XIV hereof.

Section 7.05. Parking. Each Owner shall have an ~~exclusive easement to use~~ the garage space and parking space set forth ~~on the Plat~~ and designated for such Condominium Unit as ~~indicated on the deed~~ conveying the Condominium Unit to such ~~Owner.~~ Such exclusive parking easement shall be appurtenant to the respective Condominium Unit and may not be severed from the ownership of the Condominium Unit. All unassigned parking spaces shall be utilized for the benefit of the Association and the Board shall have the authority to manage the unassigned parking spaces in its sole discretion including, without limitation, the right to designate all or part of such unassigned parking spaces

as guest parking and/or to lease such unassigned parking spaces to Owners in accordance with the unassigned parking space rules adopted as part of the Association Rules.

Section 7.06. Patios, Balconies and Storage Spaces.

Each Owner shall have an exclusive easement upon, across, and over the patios or balconies and storage space or spaces designated on the Plat for each respective Condominium Unit by corresponding number. Such exclusive easements shall be appurtenant to the respective Condominium Unit and may not be severed from the ownership of the Condominium Unit.

VIII

USE RESTRICTIONS

Section 8.01. Residential Use. The Property shall be used exclusively for residential purposes and each Condominium Unit shall be improved, used and occupied as a separate dwelling unit. Unless specifically approved by the Board, no part of the Property may be used for any business, commercial, manufacturing, storing, vending, or any nonresidential purposes. However, nothing contained herein shall be construed to prevent Declarant and its agents from engaging in all forms of construction and sales activities within the Property including use of Condominium Units owned by Declarant as models until all Condominium Units have been sold by Declarant.

Section 8.02. Signs. No sign of any kind shall be ~~displayed to public view~~ from any portion of the Property without the written approval of the Board. Notwithstanding the foregoing, a single sign of reasonable dimension advertising a Condominium Unit for sale or rent may be placed by the Owner or his agent within the Condominium Unit or immediately adjacent thereto located on the Common Elements, subject to reasonable regulation by the Board. Nothing herein shall prevent Declarant and its agents and assigns from utilizing reasonable signs, flags, markers, and sales devices in furtherance of sales activities until all Condominium Units have been sold by Declarant.

Section 8.03. Nuisance. No noxious or offensive activity shall be carried on upon the Property, nor shall any activity which might be or become an annoyance or nuisance to Owners or Occupants be permitted to interfere with their rights of quiet enjoyment or increase the rate of any insurance. No Owner or Occupant shall engage in activity within the Property in violation of any law, ordinance, statute, rule or regulation of any local, county, state or federal body. Nothing herein shall be construed to prevent Declarant and its agents from engaging in all forms of construction and sales activities until all Condominium Units have been sold by Declarant.

Section 8.04. Temporary Structures. No structure or building of a temporary character, including a tent or shack, shall be placed upon the Property or used therein unless the same and its proposed use are approved by the Board. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Property.

Section 8.05. Parking. Unless otherwise permitted by the Board, ~~no~~ motor vehicle (including a motorcycle), trailer, camper, ~~boat,~~ or similar item, and no bicycle, shall be permitted to remain upon the Property unless parked or placed within the Property in spaces designated for such use; provided, however, temporary parking of motor vehicles shall be permitted. For purposes hereof, "temporary parking" shall mean parking of vehicles belonging to invitees of Owners and Occupants, parking of delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of goods and services to the Association or to the Owners and Occupants as well as parking of vehicles belonging to and being used by Owners, Occupants and invitees for loading and unloading purposes. Except for temporary parking, no buses, vans, trucks, or other vehicles having a carrying capacity in excess of 3/4 tons or designed for commercial purposes shall be maintained or parked upon the Property

except with the prior written approval of the Board. The Board may adopt Association Rules relating to the admission and temporary parking of vehicles within the Property, including the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be special Assessments. Nothing herein shall be construed as preventing Declarant from using temporary structures or trailers for construction and/or sales purposes or engaging in all forms of construction and sales activities within the Property.

Section 8.06. External Fixtures. No external items such as, but not limited to, television and radio antennas, flag poles, clotheslines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens, screen doors, porch or patio or balcony enclosures, sunshades, walls, landscaping and planting, other than those provided in connection with the original construction of the Property, and any replacements thereof, and other than those approved by the Board and any replacements thereof, shall be constructed, erected or maintained on the Property, including any Buildings thereof. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Property. The Association may maintain in effect or cause to be maintained in effect a central antenna system or systems, which shall provide connections to each Condominium Unit via underground or internal wall wiring, or a combination thereof.

Section 8.07. Window Covers. Only curtains, drapes and shades may be installed as window covers. No window shall be covered by paint, foil, sheets or similar items. The Board may adopt Association Rules regulating the type, color and design of the external surface of window covers.

Section 8.08. External Laundering. Unless otherwise permitted by the Board, external laundering and drying of clothing and other items is prohibited.

Section 8.09. Outside Speakers and Amplifiers. No radio, stereo, broadcast or loudspeaker units and no amplifiers of any kind shall be placed upon or outside, or be directed to the outside of any Building without the prior written approval of the Board.

Section 8.10. Repairs. No repairs of any detached machinery, equipment or fixtures, including without limitation, motor vehicles, shall be made upon the Property. Notwithstanding the foregoing, minor tuneups for motor vehicles and the changing of motor oil and spark plugs in motor vehicles are permitted if such work is performed within the garage area.

Section 8.11. Unsightly Items. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from Condominium Units and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of the Condominium Units, shall be prohibited upon any Condominium Unit unless obscured from view of adjoining Condominium Units and Common Elements. Trash and garbage not disposed of by equipment contained within the Condominium Units shall be placed in containers by Owners and Occupants for removal from the Property in accordance with Association Rules applicable thereto adopted by the Board. The Board may adopt rules applicable to the provisions of this Section and their enforcement, including the assessment of charges to Owners and Occupants who violate, or whose invitees violate, such rules. Any charges so assessed shall be special Assessments. The foregoing notwithstanding, nothing herein shall be construed as preventing Declarant and its agents and assigns from engaging in all forms of construction and sales activities within the Property.

Section 8.12. Oil and Mineral Activity. No oil drilling, oil development operations, oil refining, quarrying or

mining operations of any kind shall be permitted upon the surface of the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be installed upon the surface of the Property or within five hundred (500) feet below the surface of the Property. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon the Property.

Section 8.13. Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept in any Condominium Unit or elsewhere within the Property except that orderly domestic dogs (not exceeding 50 pounds in weight) cats, fish, and domestic birds inside bird cages may be kept as household pets within any Condominium Unit. No animals may be kept, bred or raised therein for commercial purposes, or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall be deemed to limit the total number of all pets to two (2) adult pets per Condominium Unit, excepting fish and domestic birds inside bird cages. (Adult is defined as being more than four (4) months old.) Unless otherwise permitted by the Board, dogs must be carried or be on leashes and accompanied by an adult except when confined within the Condominium Units. Pets cannot be kept or leashed on balconies, patios or courtyards or otherwise leashed to any stationary object on the common areas. No animal is permitted in or on any community facilities. The owners of pets shall be obligated to remove all excrement of their pets from landscaping and other exterior portions of the Common Elements. The Association shall have the right to specify from time to time special areas in which pets must be exercised. Further, the Association shall have the right to prohibit maintenance of any animal which constitutes, in the sole and exclusive opinion of the Board, a nuisance to any other Owner. Each person bringing or keeping a pet upon the Property shall be absolutely liable to each and all other Owners, their family members, guests, invitees, for any damage to persons or property caused by any pet brought upon or kept upon the Property by such persons or

by members of his family, his guests or invitees. All pets shall be photographed and registered with the Board and shall otherwise be licensed and innoculated as required by law. The Board may establish reasonable fees for registration of pets not to exceed the additional costs incurred by the Association resulting from the presence of such pets.

Section 8.14 Leases. Any agreement for the leasing or rental of a Condominium Unit (hereinafter in this Section referred to as a "lease") shall provide that the terms of such lease shall be subject in all respects to the provisions of this Declaration, the Bylaws and the Association Rules. Said lease shall further provide that any failure by the Occupant thereunder to comply with the terms of the foregoing documents shall be a default under the lease. All leases shall be in writing. With the exception of a Lender in possession of a Condominium Unit following a default in a first mortgage or first deed of trust, a foreclosure proceeding, or any deed or other arrangement in lieu of foreclosure, no Owner shall be permitted to lease his Condominium Unit for transient or hotel purposes, which shall be defined as rental for any period of less than thirty (30) days. No Owner may lease less than his entire Condominium Unit. Any Owner who shall lease his Condominium Unit shall be responsible for assuring compliance by the Occupant with this Declaration, the Bylaws and the Association Rules. Failure by an Owner to take legal action, including the institution of forcible entry and detainer proceeding against his Occupant who is in violation of this Declaration, the Bylaws or the Association Rules within ten (10) days after receipt of written demand so to do from the Board, shall entitle the Association, through the Board, to take any and all such action including the institution of proceedings in forcible entry and detainer on behalf of such Owner against his Occupant. Any expenses incurred by the Association, including attorneys' fees and costs of suit, shall be repaid to it by such Owner. Failure by such Owner to make such repayment within ten (10) days after receipt of a written demand therefor shall

entitle the Board to levy a special Assessment against such Owner and his Condominium Unit for all such expenses incurred by the Association. In the event such special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof.

Section 8.15. Rules and Regulations. The Association, acting through the Board, shall have the power to make and adopt reasonable Association Rules with respect to activities which may be conducted on any part of the Property. The Board's determination as to whether a particular activity being conducted or to be conducted violates or will violate such Association Rules shall be conclusive unless, at a regular or special meeting of the Association, Owners representing a majority of the voting power of the Association vote to the contrary.

IX

INSURANCE

Section 9.01. Authority to Purchase. Commencing not later than the date a Condominium Unit is conveyed to a Person other than Declarant, the Board shall have the authority to obtain and shall obtain the insurance provided for in this Article.

Section 9.02. Hazard Insurance. The Board shall obtain a master or blanket policy of property insurance on the entire Property including the Condominium Units and the Common Elements (excluding land, additions, improvements and decorations made in the Condominium Units by the Owners and Occupants) insuring the Property against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and against loss or damage by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage. Such master policy of property insurance shall be in a total amount of insurance equal to 100% of the current replacement cost, exclusive of land, excavations, foundations and other items normally excluded from such property policies. Such

master policy of property insurance shall contain an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement, together with such endorsements as may be satisfactory to any Lender. Each hazard insurance policy must be written by an insurance carrier classified in financial category of Class' VI or better, as designated by Best's Key Rating Guide. If more than one Lender exists, such policy and endorsements shall meet the highest maximum standards of all such Lenders.

Section 9.03. Comprehensive Public Liability Insurance. The Board shall obtain comprehensive general liability insurance insuring the Association, the Declarant, the agents and employees of the Association and the Declarant, the Owners and Occupants and the respective family members, guests and invitees of the Owners and Occupants, against liability incident to the ownership or use of the Common Elements. The limits of such insurance shall not be less than \$1,000,000.00 covering all claims for death of or injury to any one person and/or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner or Occupant. Such insurance shall also include protection against water damage liability, liability for nonowned and hired automobiles, and liability for the property of others. Such insurance must provide that, despite any provisions giving the carrier the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable without the approval of the Association. The Board shall adjust the amount of the insurance carried under this Section from time to time.

Section 9.04. Workmen's Compensation Insurance. The Board shall purchase and maintain in effect workmen's compensation insurance for all employees of the Association to the extent that such insurance is required by law.

Section 9.05. Fidelity Insurance. The Board shall obtain fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible for handling the funds of the Association. Such fidelity bonds shall name the Association as obligee and shall be written in an amount equal to one hundred fifty percent (150%) of the estimated current annual Common Expenses of the Association, including reserves, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 9.06. Premiums. Premiums upon insurance policies purchased by the Board on behalf of the Association shall be paid by the Association as part of the Common Expenses.

Section 9.07. Policy Provisions.

(a) Any insurer that has issued an insurance policy to the Association under this Article shall also issue a certificate or memoranda of insurance to the Association and, upon request, to any Owner or Lender.

(b) The named insured under any policy of insurance shall be the Association, as trustee for the Owners, or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee, each of which shall be referred to as the "Insurance Trustee" who shall have exclusive authority to negotiate losses under the policies. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of purchasing and maintaining insurance required by this Article, and adjustment of all losses related thereto, including: the collection and appropriate disposition of all insurance proceeds, the negotiation of all losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to administer such insurance. The Association shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the Owners and their Lenders, as their interests may appear. This

power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

(c) The Association's insurance shall contain the "Special Condominium Endorsement" or its equivalent. Insurance coverage may not be brought into contribution with insurance purchased by the Owners.

(d) Coverage must not be limited by (i) any act or neglect by Owners or Occupants which is not within control of the Association; 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 (including cancellation for nonpayment of premiums) without at least ten (10) days prior written notice to the Association and all Lenders, and to any Owner to whom a certificate has been issued.

(f) All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, Owners, Occupants and their respective agents and employees, and any defenses based on co-insurance or on invalidity arising from acts of the insured.

Section 9.08. Supplemental Insurance. The Board may obtain such other policies of insurance in the name of the Association as the Board deems appropriate to protect the Association and Owners, including, without limitation, errors and omissions insurance for officers and directors of the Association. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, except to the extent such coverage is not available or has been waived in writing by the Federal National Mortgage Association or the Federal Home Loan

Mortgage Corporation. The foregoing notwithstanding, the Association shall maintain such flood insurance as may be required from time to time by the Veterans Administration.

Section 9.09. Annual Insurance Report. Not later than sixty (60) days prior to the beginning of each fiscal year, the Board shall obtain a written report by a reputable independent insurance broker or consultant setting forth the existing insurance obtained pursuant to this Article and stating whether, in the opinion of such broker or consultant, the insurance complies with the requirements of this Article. Such report shall also set forth recommendations regarding current policy provisions and for additional insurance reasonably required for the protection of the Owners and Lenders in light of the insurance then available and the prevailing practice with respect to other similar Condominium Units. The Board shall be fully protected in relying on the written report furnished pursuant to this Section provided reasonable care and prudence were exercised in selecting such independent insurance broker or consultant.

Section 9.10. Insurance Obtained by Owners. An Owner ~~or Occupant shall be~~ authorized and encouraged to insure his ~~personal property against~~ loss by fire or other casualty and may carry public liability insurance covering his individual liability for damage to persons or property occurring inside his Condominium Unit. An Owner may carry additional hazard insurance covering his Condominium Unit and improvements as well as additional liability insurance covering exposure from the ownership or use of the Common Elements. All such policies as may be carried by an Owner shall contain waivers of subrogation of claims against the Association, the Board, other Owners or Occupants, the Declarant and the agents and employees of each of the foregoing. All such policies as may be carried by an Owner shall not adversely affect or diminish any liability under any insurance obtained by the Association, and the Owner shall deposit a duplicate copy or certificate of any such other policy with the Board, except for casualty policies covering personal

property and liability policies covering loss within the Condominium Unit.

X

. DESTRUCTION OF IMPROVEMENTS

Section 10.01. Automatic Reconstruction. In the event of partial or total destruction of a Building or Buildings or any portion of the Common Elements within the Property, the Board shall promptly take the following action:

(a) The Board shall ascertain the cost of reconstruction by obtaining fixed price bids from at least two (2) reputable contractors, including the obligation to obtain performance and lien payment bonds.

(b) The Board shall determine the amount of insurance proceeds, if any, payable by contacting the appropriate representative of the insurer of said Building or Buildings,

(c) If the Board determines: (i) that insurance proceeds will cover eighty-five percent (85%) or more of the estimated cost of reconstruction, or (ii) that available insurance proceeds together with available reserves and/or a special Assessment equal to twenty-five percent (25%) or less of the then aggregate annual regular Assessments for all Condominium Units will completely cover the estimated cost of reconstruction, then the Board shall cause notice to be sent to all Owners and to all Lenders encumbering Condominium Units within the Property setting forth such findings and informing said Owners and Lenders that the Board intends to commence reconstruction pursuant to this Declaration. In the event that Owners representing not less than twenty percent (20%) of the voting power of the Association, object in writing to such reconstruction as indicated in such notice, the Board shall call a special meeting of the Owners pursuant to Section 10.02. In the event that the foregoing requirements are satisfied and the requisite number of Owners do not object in writing to such reconstruction, the Board shall cause reconstruction to take place as promptly as practicable

thereafter. In connection with such reconstruction, the Board shall levy an Assessment to cover costs of reconstruction in excess of insurance proceeds and available reserves, and such reconstruction Assessment shall be levied against each Owner based upon that Owner's then respective fractional interest in the Common Elements.

(d) If the Board in good faith determines that none of the bids submitted under this Section reasonably reflects the anticipated reconstruction costs, the Board shall continue to attempt to obtain an additional bid which it determines reasonably reflects such costs. Such determination shall be made by the Board as soon as possible. However, if such determination cannot be made within ninety (90) days after the date of such destruction because of the unavailability or unacceptability of an insurance estimate or reconstruction bid, or otherwise, the Board shall immediately call a meeting of the affected Owners and Lenders pursuant to Section 10.02 hereof.

(e) If the Board determines that any Condominium Unit has become uninhabitable by reason of its total or partial destruction, Assessments may abate against the Owner thereof until the Board determines that habitability has been restored. However, if the Board determines that such abatement would adversely and substantially affect the management, maintenance and operation of the Property, it may elect to disallow such abatement.

Section 10.02. Reconstruction by Vote. If reconstruction is not to take place pursuant to Section 10.01 hereof, as soon as practicable after same has been determined, the Board shall call a special meeting of the Owners by mailing a notice of such meeting to each such Owner. Such meeting shall be held not less than fourteen (14) days and not more than twenty-one (21) days after the date of such notice. Unless the Owners, by a vote at such meeting or by the written consent representing not less than seventy-five percent (75%) of the voting power of the Association determine not to proceed with such reconstruction,

reconstruction must take place and the Board shall levy an Assessment to cover costs of reconstruction in excess of insurance proceeds and available reserves, and such reconstruction Assessment shall be levied against each Owner based upon that Owner's then respective fractional interest in the Common Elements.

Section 10.03. Procedure for Minor Reconstruction. If the cost of reconstruction is equal to or less than ten percent (10%) of the face amount of insurance then carried under the Association's hazard insurance policy, then the Board shall contract with a licensed contractor or contractors to rebuild or repair such damaged or destroyed portions of the Property in conformance with the original plans and specifications, or if the Board determines that adherence to such original plans and specifications is impracticable or is not in conformance with applicable laws, ordinances, building codes, or other governmental rules or regulations then in effect, then such repairs or rebuilding shall be of a kind and quality substantially equivalent to the original construction of such improvements.

Section 10.04. Procedure for Major Reconstruction. If the cost of reconstruction is greater than ten percent (10%) of the face amount of insurance then carried under the Association's hazard insurance policy, all insurance proceeds, together with such amounts from available reserves or special Assessments as are needed to complete the cost of reconstruction, shall be paid directly to a bank or savings and loan association located in Maricopa County, Arizona, whose accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or the successor to either agency, as designated by the Board, as trustee (hereinafter called the "Insurance Trustee") for all Owners and Lenders. Such proceeds shall be received, held and administered by the Insurance Trustee subject to the provisions of an insurance trust agreement which shall be consistent with the provisions of this Declaration and which shall be entered into between the Insurance Trustee and the

Board. Disbursement of such funds shall be made only upon the signatures of two members of the Board and upon the terms and conditions provided in this Section. As soon as practicable after notification of the receipt of insurance proceeds by the Insurance Trustee, the Board shall enter into a contract with a licensed contractor or contractors for the repair or rebuilding of all of the damaged or destroyed Condominium Units and Common Elements according to the original plans and specifications of said improvements or, if the Board determines that adherence to such original plans and specifications is impracticable or not in conformity with applicable statutes, ordinances, building codes, or other governmental rules and regulations then in effect, then of a quality and kind substantially equivalent to the original construction of such improvements. The contract with such licensed contractor or contractors shall provide for payment to the contractor or contractors of a specified sum for performance and execution of the work therein described, and shall have provisions for periodic disbursement of funds by the Insurance Trustee, which shall be consistent with procedures then followed by prudent lending institutions doing business in Maricopa County, Arizona. Such periodic disbursements of funds shall be for specific dollar amounts and shall not be paid until the contractor who is engaged by the Board shall furnish to the Board before the commencement of construction a full performance and lien payment bond written by a good and responsible corporate surety. Disbursements to the contractor shall be made subject to the prior presentation of an architect's certificate containing such provisions as may be appropriate in the circumstances and deemed suitable by the Board. The Board shall employ a licensed architect to supervise the repair and rebuilding to insure that all work, services and supplies are in conformity with the requirements of the construction contract.

Section 10.05. Termination. If Owners representing not less than seventy-five percent (75%) of the voting power of the Association elect not to proceed with the reconstruction at

the special meeting held pursuant to Section 10.02, the Board shall divide the insurance proceeds and then available reserves into as many shares as there are then Condominium Units, said shares to be in the same proportion as the Owners' respective fractional interest in the Common Elements. The Board shall first make application of each Owner's share to the payment of each mortgage, deed of trust, or other encumbrance or lien of record with respect to said Condominium Unit, with the balance being distributed to the Owner. If all encumbrances are fully discharged by the Board with applicable insurance proceeds and available reserves, the Horizontal Property Regime shall be terminated at such time as all Owners execute, acknowledge and record a declaration evidencing such withdrawal. If there are mortgages, deeds of trust, or other encumbrances remaining against any of the Condominium Units after disbursement by the Board of the proportionate share of insurance proceeds and available reserves, and such deficiencies are not paid by the respective Owner or Owners, the holders of any such mortgage, deed of trust, or other encumbrance must also execute and acknowledge such declaration in order to lawfully withdraw the Property from the Horizontal Property Regime pursuant to the Act.

Section 10.06. Negotiations with Insurer. The Board shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed Building or any other portion of the Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such Building or any other portion of the Common Elements. Any settlement made by the Board in good faith shall be binding upon all Owners and Lenders.

Section 10.07. Repair of Condominium Units. Installation of improvements to, and repair of any damage to, the interior of a Condominium Unit shall be made by and at the individual expense of the Owner of that Condominium Unit and, in the event of a determination to reconstruct after partial or total

destruction, shall be completed as promptly as practicable and in a lawful and workmanlike manner.

Section 10.08. Priority. Nothing contained in this Article shall entitle an Owner to priority over any Lender under a loan encumbering his Condominium Unit as to any portion of insurance proceeds allocated to such Condominium Unit.

XI

EMINENT DOMAIN

Section 11.01. Total Taking of a Condominium Unit. If a Condominium Unit is taken by eminent domain, or sold under threat thereof, or if part of a Condominium Unit is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant which may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for his Condominium Unit and fractional interest in the Common Elements. Upon such a taking, that Condominium Unit's fractional interest in the Common Elements shall automatically be reallocated to the remaining Condominium Units in proportion to their respective interests immediately before the taking.

Section 11.02. Partial Taking of a Condominium Unit. If part of a Condominium Unit is taken by eminent domain, or sold under threat thereof, so that such Condominium Unit may still be practically and lawfully used under this Declaration, the award must compensate the Owner for reduction in the value of the Condominium Unit and its fractional interest in the Common Elements.

Section 11.03. Taking of the Common Elements. If the portion of the Property taken by eminent domain, or sold under threat thereof, shall not be comprised of, or include, any Condominium Unit, the Board shall, as soon as practicable, cause the award to be utilized for the purpose of repairing or restoring the Property so taken, and the portion of the award not used for restoration shall be divided among the Owners in proportion

to their fractional interest in the Common Elements before the taking.

Section 11.04. Taking of Entire Property. In the event the Property in its entirety is taken by eminent domain, or sold under threat thereof, the Board shall distribute the award (after deducting therefrom fees and expenses related to the condemnation proceedings including, without limitation, fees for attorneys, appraisers and court costs) to the Owners and such award shall be apportioned among the Owners in accordance with the judgment if such judgment of condemnation provides for apportionment, and if no apportionment is made, the Board shall distribute the award to Owners in the same proportion as the Owner's respective fractional interest in the Common Elements; provided, however, the Board shall first apply the award, as ultimately distributable to each Owner, to the payment of any mortgage, deed of trust or other encumbrance or lien of record with respect to such Condominium Unit and the Horizontal Property Regime shall not be terminated unless the applicable provisions of Section 10.05 hereof are satisfied.

Section 11.05. Priority and Power of Attorney. Nothing contained in this Article shall entitle an Owner to priority over any Lender under a loan encumbering his Condominium Unit as to any portion of any such condemnation award allocated to such Condominium Unit. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Elements, or any part thereof. In the event the taking involves all or part of the Common Elements, the award or proceeds shall be payable to the Association for the use and benefit of the Owner and their Lenders as their interests may appear. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.

XII

RIGHTS OF LENDERS

Section 12.01. Priority of Lenders. No breach of the Restrictions herein contained, nor the enforcement of any lien provision herein, shall affect, impair, defeat or render invalid the lien or charge of any Lender made in good faith and for value encumbering any Condominium Unit, but all of said Restrictions shall be binding upon and effective against any Owner whose title to a Condominium Unit is derived through foreclosure or trustee's sale, or otherwise.

Section 12.02. Relationship with Assessment Liens.

(a) The lien provided for in ARTICLE V for the payment of Assessments shall be subordinate to the lien of any Lender which was recorded prior to the date any such Assessment becomes due.

(b) If any Condominium Unit which is subject to a monetary lien created by this Declaration is also subject to the lien of a Lender, then: (i) the foreclosure of any lien created by this Declaration shall not operate to affect or impair the lien of such Lender; and (ii) the foreclosure of the lien of a Lender or the sale under a power of sale included in a mortgage or deed of trust shall not operate to affect or impair the lien hereof, except that any Person who obtains an interest thereafter shall take title free of any lien created by this Declaration or any personal obligation for said charges as shall have accrued up to the time of any foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to such foreclosure.

(c) Without limiting the provisions of subsection (b) of this Section, any Lender who obtains title to a Condominium Unit by reason of any foreclosure or deed or assignment in lieu of foreclosure, or any Person who obtains title at a private or judicial foreclosure sale, shall take title to such Condominium Unit free of any lien or claim for unpaid Assessments against such Condominium Unit which accrued prior to the time such Lender or purchaser takes title to such Condominium Unit, except for

liens or claims for a share of such Assessments resulting from a pro rata reallocation of such Assessments to all Condominium Units within the Property; provided, however, such reallocation is approved by the vote of 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 such purpose. At such meeting, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership of the Association shall constitute a quorum. If a Lender or purchaser acquires title to a Condominium Unit pursuant to this Section but the lien for Assessments prior to the time such Lender or purchaser who acquired title has not been extinguished by the process by which such Lender or purchaser acquired title to the Condominium Unit, said lien shall be void, and upon request of said Lender or purchaser, the lien shall be released in writing by the Association.

(d) Nothing in this Section shall be construed as releasing any Person from his personal obligation to pay for any Assessments levied pursuant to this Declaration during the period such Person is an Owner.

Section 12.03. Required Lender Approval. Except upon the prior written approval of sixty-seven percent (67%) of all Lenders (based on one vote for each mortgage or deed of trust owned) or Owners (excluding Declarant), neither the Association nor the Board shall be entitled by action or inaction to do any of the following:

(a) Abandon or terminate by any act or omission the legal status of the Property as a Horizontal Property Regime, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by eminent domain;

(b) Partition or subdivide a Condominium Unit or the Common Elements;

(c) Terminate professional management of the Property and assume self management;

(d) Change the pro rata interest or obligations of any individual Condominium Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Condominium Unit in the Common Elements;

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

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

Section 12.04. Other Rights of Lenders. Any Lender (and such Lender's insurer or guarantor and any Owner) shall, upon written request to the Association, be entitled:

(a) To inspect current copies of this Declaration (and any amendments), the Association's Articles, Bylaws, and Association Rules, and other books and records of the Association during normal business hours;

(b) To receive an annual audited financial statement of the Association within ninety (90) days following the end of the Association's fiscal year;

(c) To receive written notice of all annual and special meetings of the Association or of the Board, and Lenders shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this Section shall give a Lender the right to call a meeting of the Board or of the Association for any purpose or to vote at any such meeting; and

(d) To receive written notification from the Association of any default in the performance of the obligations imposed by this Declaration, Bylaws or Association Rules by the Owner whose Condominium Unit is encumbered by a Lender, which default has not been cured within sixty (60) days; provided, however, the Association shall only be obligated to provide such notice to Lenders who have delivered a written request therefor to the Association specifying the Condominium Unit to which such request relates.

(e) To receive timely written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(f) To receive timely written notice of any proposed action that requires the consent of a specified percentage of Lenders.

Section 12.05. Notice of Destruction or Taking. In the event any Condominium Unit sustains material damage, or the Common Elements sustain material damage, or in the event any Condominium Unit or the Common Elements are made the subject of any condemnation proceedings or are otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any Lender affected by such destruction, taking or threatened taking regardless of whether a written request has been filed with the Association.

XIII

LIMITATIONS UPON PARTITION AND SEVERANCE

Section 13.01. No Partition. The right to partition the Property is hereby suspended, except that the right to partition shall revive and the Property may be sold as a whole when the conditions for such action set forth in ARTICLE X dealing with Destruction of Improvements, and ARTICLE XI dealing with Eminent Domain have been met; provided, however, nothing contained in this Section shall be construed as limiting partition by joint Owners, upon the prior written approval of an

applicable Lender, of one or more Condominium Units as to individual ownership of such Condominium Units provided the Horizontal Property Regime is not terminated.

Section 13.02. No Severance. The elements of a Condominium Unit and other rights appurtenant to the ownership of a Condominium Unit, including exclusive easements over the Common Elements, if any, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Condominium Unit and such appurtenances. Any conveyance made in contravention of this Section shall be void.

Section 13.03. Proceeds of Partition Sale. If an action is brought for the partition of the Property by sale, whether upon the occurrence of an event of destruction and a decision not to reconstruct or the taking of all or a portion of the Property by eminent domain, Owners shall share in the proceeds of such sale in the same proportion as their interests in the Common Elements, but in such event, the liens and provisions of all Lenders or Assessment liens encumbering Condominium Units within the Property so encumbered shall extend to each applicable Owner's interest in the proceeds of such partition and sale. The interest of an Owner in such proceeds shall not be distributed to such Owner except upon the prior payment of any Assessment lien or lien of a Lender encumbering such proceeds.

XIV

EXPANSION OF THE HORIZONTAL PROPERTY REGIME

Section 14.01. Reservation of Option to Expand. Declarant intends to develop the Additional Parcel on a phased basis by annexing all or part of the Additional Parcel into the Property; however, Declarant may elect not to develop or annex all or any portion of the Additional Parcel. Without the approval of the Owners or the Association or existing Lenders, Declarant shall have the right to annex all or part of the Additional Parcel by Supplemental Declaration, and Declarant

hereby reserves the right, privilege, and option to expand the Property under the name of GARDEN CLUB CONDOMINIUMS by adding one or more portions of the Additional Parcel on a phased basis and related Buildings and Condominium Units, together with improvements and fixtures located thereon, and easements and rights appurtenant thereto, as provided in this ARTICLE XIV. However, Declarant shall be under no obligation to expand the Property; and no part of the Additional Parcel shall become subject to this Declaration unless and until a Supplemental Declaration shall have been executed and recorded in accordance with this ARTICLE XIV.

Section 14.02. Supplemental Declaration. A Supplemental Declaration shall be a written instrument in recordable form, recorded in the office of the County Recorder of Maricopa County, Arizona which annexes all or part of the Additional Parcel to the Property under this Declaration; and which incorporates by reference all of the Restrictions and other provisions of this Declaration, and which contains such other provisions as are set forth in this Declaration relating to Supplemental Declarations.

Section 14.03. Additional Condominium Units. The Declarant may elect to add fifty-two (52), or less, additional Condominium Units to the Property so that the aggregate number of total Condominium Units in the Property shall not exceed a maximum of ~~seventy~~-two (72). All additional Condominium Units shall be used exclusively for residential purposes and such additional Condominium Units may be added in one or more phases as Declarant may determine consistent with the phased development plan.

Section 14.04. Time Limitation. Declarant shall have the right to add the 52 or less additional Condominium Units to the Property by Supplemental Declaration; provided, however, the right and option of Declarant to add all or any part of the Additional Parcel and related Condominium Units to the Property

shall extend only for a seven (7) year term commencing upon the date this Declaration is originally recorded.

Section 14.05. Reallocation Formula. The fractional interest of each Condominium Unit in the Common Elements shall be reallocated by a complete restatement in any Supplemental Declaration setting forth the fractional interest in the Common Elements for the then total number of Condominium Units and such fraction shall be based on a numerator of one (1) and a denominator of the number of Condominium Units then contained in the Property.

Section 14.06. Power of Attorney. Each Owner, upon receipt and recordation of a deed or agreement for sale from Declarant whereby a Condominium Unit is conveyed to such Owner, shall be deemed to constitute and appoint Declarant the attorney-in-fact for Owner to act as the true and lawful attorney for such Owner and in the name, place, and stead of such Owner to restate fractional interests in the Common Elements in accordance with any Supplemental Declaration recorded pursuant to this ARTICLE XIV. The grant of such authority to Declarant is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of any Owner.

Section 14.07. Compatible Construction; Substantial Completion. Declarant covenants that all Buildings and Condominium Units added to the Property, if any, shall be comparable in architectural style, floor plan, size and quality of construction and all improvements in additional phases shall be substantially completed prior to annexation.

Section 14.08. Voting and Assessments. Class B voting rights for Declarant as provided by Section 4.03 shall become immediately effective as to the additional Condominium Units upon the date of recordation of the Supplemental Declaration. Assessments for additional Condominium Units shall be handled in the manner prescribed in Article V.

Section 14.09. Insurance During Expansion. During construction of additional Condominium Units in any expanded phase, the Declarant must purchase (at Declarant's own expense) a liability insurance policy in an amount determined by the Administrator of the Veterans Administration to cover any liability to which Owners of existing Condominium Units might be exposed.

Section 14.10. Required Approval. This Declaration may not be amended for the purpose of expanding the number of Condominium Units within the Property (or merged with any successor condominium regime) without the prior written approval of the Administrator of the Veterans Administration.

XV

GENERAL PROVISIONS

Section 15.01. Enforcement. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all Restrictions and other provisions now or hereafter imposed by this Declaration, or any amendments thereto, including the right to prevent the violation of any such Restrictions, and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and Association Rules and any respective amendments thereto.

Section 15.02. No Waiver. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or Association Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

Section 15.03. Cumulative Remedies. All rights, options and remedies of Declarant, the Association, the Owners or the Lenders under this Declaration are cumulative, and no one of them shall be exclusive of any other, and Declarant, the Association, the Owners and the Lenders shall have the right to pursue any one or all of such rights, options and remedies or any

other remedy or relief which may be provided by law, whether or not stated in this Declaration.

Section 15.04. Severability. Invalidation of any one or a portion of the Restrictions or provisions set forth in this Declaration or in the Bylaws or Association Rules by judgment or court order shall in no way affect any other Restrictions or provisions contained herein or therein which shall remain in full force and effect.

Section 15.05. Covenants to Run with the Land; Term. The Restrictions and other provisions of this Declaration shall run with and bind the Property as equitable servitudes and also as covenants running with the land and shall inure to the benefit of and be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time the Restrictions and other provisions shall be automatically extended for successive periods of ten (10) years, unless Owners representing not less than seventy-five percent (75%) of the Condominium Units within the Property, and their Lenders, agree, within one (1) year prior to the end of any such period, to amend or revoke the Restrictions and other provisions of this Declaration in whole or in part.

Section 15.06. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a residential Condominium community and for the maintenance of the Property. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 15.07. Gender and Number. Whenever the context of this Declaration requires, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and the neuter, and vice versa.

Section 15.08. Nuisance. The result of every act or omission whereby any provision or Restriction contained in this

Declaration or any provision contained in the Bylaws or Association Rules is violated in whole or in part is hereby declared to be and shall constitute a nuisance, and every remedy allowed at law or in equity against a nuisance, either public or private, shall be applicable with respect to the abatement thereof and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative to all other remedies set forth in this Declaration and shall not be deemed exclusive.

Section 15.09. Attorneys' Fees. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the Bylaws, or Association Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorneys' fees and costs of suit.

Section 15.10. Notices. Any notice to be given to an Owner, a Lender, or the Association under the provisions of this Declaration shall be in writing and shall be delivered as follows:

(a) Notice to an Owner shall be delivered personally or placed in the first class United States mail, postage prepaid, to the most recent address furnished by such Owner in writing to the Board for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Condominium Unit. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit. In the case of co-Owners, any such notice may be delivered or sent to any one of the co-Owners on behalf of all co-Owners and shall be deemed delivered to all such co-Owners.

(b) Notice to a Lender shall be delivered by first class United States mail, postage prepaid, to the most recent address furnished by such Lender in writing to the Board for the purpose of notice or, if no such address shall have been furnished, to any office of the Lender in Maricopa County, Arizona, or if no such office is located in Maricopa County, to any office

of such Lender. Any notice so deposited in the mail shall be deemed delivered seventy-two (72) hours after such deposit.

(c) The declaration of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Owner or Owners, or to any Lender or Lenders, to the address or addresses for the giving of notice pursuant to this Section, shall be deemed conclusive proof of such mailing.

(d) Notice to the Association shall be delivered by registered or certified United States mail, postage prepaid, addressed as set forth below until the Association shall give notice of a different address:

President
Garden Club Homeowners
Association, Inc.
2802 East Greenway Road, Suite 3
Phoenix, Arizona 85032

Any notice so deposited in the mail shall be deemed delivered upon the date of receipt.

Section 15.11. Effect of Declaration. This Declaration is made for the purposes set forth in the recitals in this Declaration and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances, regulations and the like applicable thereto. Declarant shall have no liability whatsoever if any of the provisions of this Declaration, the Bylaws or Association Rules are determined to be unenforceable in whole or in part or under certain circumstances.

Section 15.12. Assignment of Declaration. If any other Lender to whom Declarant has assigned, or may assign, as security all or substantially all of its rights under the Declaration, succeeds to the interest of Declarant by virtue of said security, the Class B Member voting rights shall continue in effect and the Lender shall have the voting rights of the Class B Member of the Association upon the same terms as they were held by the Declarant pursuant to this Declaration.

Section 15.13. Personal Covenant. To the extent the acceptance of a conveyance of a Condominium Unit creates a personal covenant between the Owner of such Condominium Unit and Declarant, other Owners or the Association, such personal covenant shall terminate and be of no further force or effect from and after the date when a Person ceases to be an Owner except to the extent this Declaration provides for personal liability with respect to the Assessments incurred during the period a Person is an Owner.

Section 15.14. Nonliability of Officials. To the fullest extent permitted by law, neither the Board nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval or disapproval, course of action, act, omission, error, or negligence if such Board member or officer acted in good faith within the scope of his duties.

Section 15.15. Unsegregated Real Property Taxes. Until such time as real property taxes have been segregated by the County Assessor of Maricopa County for the Condominium Units, the taxes shall be paid by the Association on behalf of the Owners. In connection with such payment, the proportionate share of such tax or installment thereof for a particular Condominium Unit shall be determined by multiplying the tax or installment in question by the respective percentage interest of such Condominium Unit in the Common Elements. The Association may levy a special Assessment against any Owner who fails to pay his share of any real property taxes pursuant to this Section. In the event such special Assessment is not paid within thirty (30) days of its due date, the Board may resort to all remedies of the Association for the collection thereof.

Section 15.16. Notification of Sale and Transfer Fee. Concurrently with the consummation of the sale or other transfer of any Condominium Unit, or within fourteen (14) days after the date of such transfer, the transferee shall notify the

Association in writing of such transfer and shall accompany such written notice with a nonrefundable transfer fee to cover Association documentation and processing. The transfer fee shall be a reasonable sum, as determined by the Board from time to time, to cover the administrative costs incurred by the Association in connection with such transfer. The written notice shall set forth the name of the transferee and his transferor, the street address of the Condominium Unit purchased or acquired by the transferee, the transferee's mailing address, the date of the sale or transfer, and the name and address of the transferee's Lender, if any. Prior to the receipt of such written notice, all notices required or permitted to be given by the Association to the Owner shall be deemed to be duly made or given to the transferee if duly and timely made and given to the transferee's predecessor in interest. The transfer fee shall be the personal obligation of the new Owner and shall be secured by the lien in Section 5.01 hereof. Notwithstanding the other provisions hereof, this Section shall not apply to a Lender who becomes an Owner by a foreclosure proceeding, trustee's sale, or any deed or assignment in lieu of foreclosure.

Section 15.17. Owner Default in Maintenance. If an Owner fails to so maintain his Condominium Unit or make repairs thereto in such a manner as may be deemed reasonably necessary in the judgment of the Board to preserve and protect the attractive appearance and value of the Property, or if an Owner shall fail to observe any covenant or restriction imposed on such Owner by the terms of the Declaration, then the Board shall give written notice to such Owner stating with particularity the nature of the default and the corrective action which the Board determines to be required and requesting that the same be carried out within a period of fifteen (15) days after the giving of such written notice. If such Owner fails to carry out such action within the period specified by the notice, the Board shall cause such action to be taken and shall levy a special Assessment for the cost thereof to such Owner, such special Assessment to be due and

payable within thirty (30) days after the Board gives written notice thereof and to be secured by the Assessment lien created in Section 5.01 of this Declaration.

Section 15.18. Use of Funds Collected by the Association. All funds collected by the Association, including Assessments and contributions to the Association paid by Owners, if any, shall be held by the Association in a fiduciary capacity to be expended in their entirety for non-profit purposes of the Association in managing, maintaining, caring for, and preserving the Common Elements and for other permitted purposes as set forth in this Declaration. No part of said funds shall inure to the benefit of any Owner (other than as a result of the Association managing, maintaining, caring for, and preserving the Common Elements and other than as a result of expenditures made for other permitted purposes as set forth in this Declaration).

Section 15.19. Conflicting Provisions. In the case of any conflict between this Declaration and the Bylaws, or Association Rules, this Declaration shall control.

Section 15.20. Amendments. Subject to the other provisions of this Declaration, including, without limitation, the rights of Lenders, this Declaration may be revoked or amended as follows:

(a) Prior to the conveyance of the first Condominium Unit to an Owner other than Declarant, this Declaration and any amendments thereto may be amended or revoked by the execution by Declarant of an instrument amending or revoking the same.

(b) Subject to paragraph (d) of this Section 15.20, subsequent to the conveyance of the first Condominium Unit in the Property to an Owner other than Declarant, this Declaration may be amended by any group of Owners representing not less than sixty-seven percent (67%) of the total allocated votes in the Association.

(c) Subject to paragraph (d) of this Section 15.20, approval must be obtained from Lenders representing at least 51% of the votes of unit estates that are subject to mortgages held

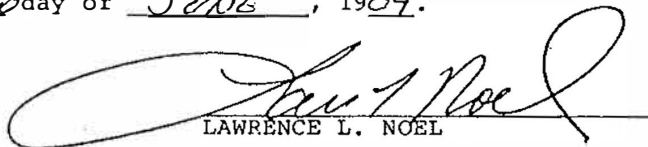
by eligible holders for material changes. A change to any of the following would be considered as material:

- voting rights;
- assessments, assessment liens, or subordination of assessment liens;
- reserves for maintenance, repair and replacement of common areas;
- responsibility for maintenance and repairs;
- reallocation of interests in the general or limited common areas, or rights to their use;
- boundaries of any unit;
- convertibility of units into common areas or vice versa;
- expansion or contraction of the project, or the addition, annexation or withdrawal of property to or from the project;
- insurance or fidelity bonds;
- leasing of units;
- imposition of any restrictions on a unit owner's right to sell or transfer his or her unit;
- a decision by the owners' association to establish self management when professional management had been required previously by a Lender;
- restoration or repair of the project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;
- any action to terminate the legal status of the project after substantial destruction or condemnation occurs; or
- any provisions that expressly benefit mortgage holders, insurers or guarantors.

(c) An amendment or revocation which only requires the execution of an instrument by Declarant as hereinabove provided shall be effective when executed by Declarant and when recorded in the office of the County Recorder of Maricopa County, Arizona. An amendment which requires the affirmative written assent or vote of the Owners as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment has been so approved, and when the amendment has been recorded in the office of the County Recorder of Maricopa County, Arizona.

(d) Notwithstanding anything herein to the contrary, as long as there is Class B membership, this Declaration may not be amended without the prior written approval of the Veterans Administration. Subject to the foregoing sentence, Declarant shall have the unilateral right to amend this Declaration during the period of nine (9) months after this Declaration was recorded if such amendment is solely required in order to meet the guidelines or regulations of the Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation. If such amendment bears a recitation that it is recorded based on the requirements of any of the foregoing agencies, such amendment shall not require approval of any Owners or Lenders.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this 22nd day of JUNE, 1984.


LAWRENCE L. NOEL

STATE OF ARIZONA)
) ss.
County of MARICOPA)

The foregoing instrument was acknowledged before me this 22nd day of JUNE, 1984, by LAWRENCE L. NOEL.


Notary Public

My Commission Expires:
My Commission Expires Jan. 4, 1988

LENDER APPROVAL

SECURITY SAVINGS AND LOAN ASSOCIATION hereby consents to the recording of the foregoing Declaration and the Plat and agrees that the foreclosure of any deed of trust or mortgage held by it encumbering the Property or the Additional Parcel shall not affect the Declaration or the Plat.


SECURITY SAVINGS AND LOAN
ASSOCIATION

By Melva A. Bohn
Its Asst. Vice President

84 282160

STATE OF ARIZONA)
) ss.
County of)

The foregoing instrument was acknowledged before me
this 28 day of June, 1984, by Meiva A. Bohn
the Asst. Vice President of SECURITY
SAVINGS AND LOAN ASSOCIATION.



Notary Public

My Commission Expires:

My Commission Expires Mar. 22, 1987

GEORGE MOEBIUS
482-6938
15402 North 28th Street, #115
Phoenix, AZ 85032

BASIS OF BEARINGS
 THE MEASUREMENTS OF BEARINGS AND DISTANCES SHOWN ON THIS MAP WERE OBTAINED BY THE SURVEYOR BY MEANS OF A THEODOLITE AND A STEEL TAPE. THE BEARINGS AND DISTANCES WERE MEASURED AT THE TIME OF THE SURVEY AND ARE GIVEN AS SHOWN ON THIS MAP.

BENCH MARK
 A 4" X 4" IRON PIPE AT THE CORNER OF SECTION 17, T. 13 N., R. 12 E., S. 1 M., PHOENIX, ARIZONA, HAS BEEN USED AS THE BASIS OF ALL ELEVATIONS SHOWN ON THIS MAP.

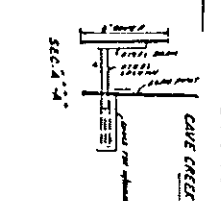
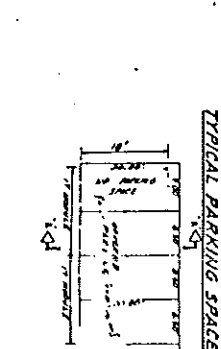
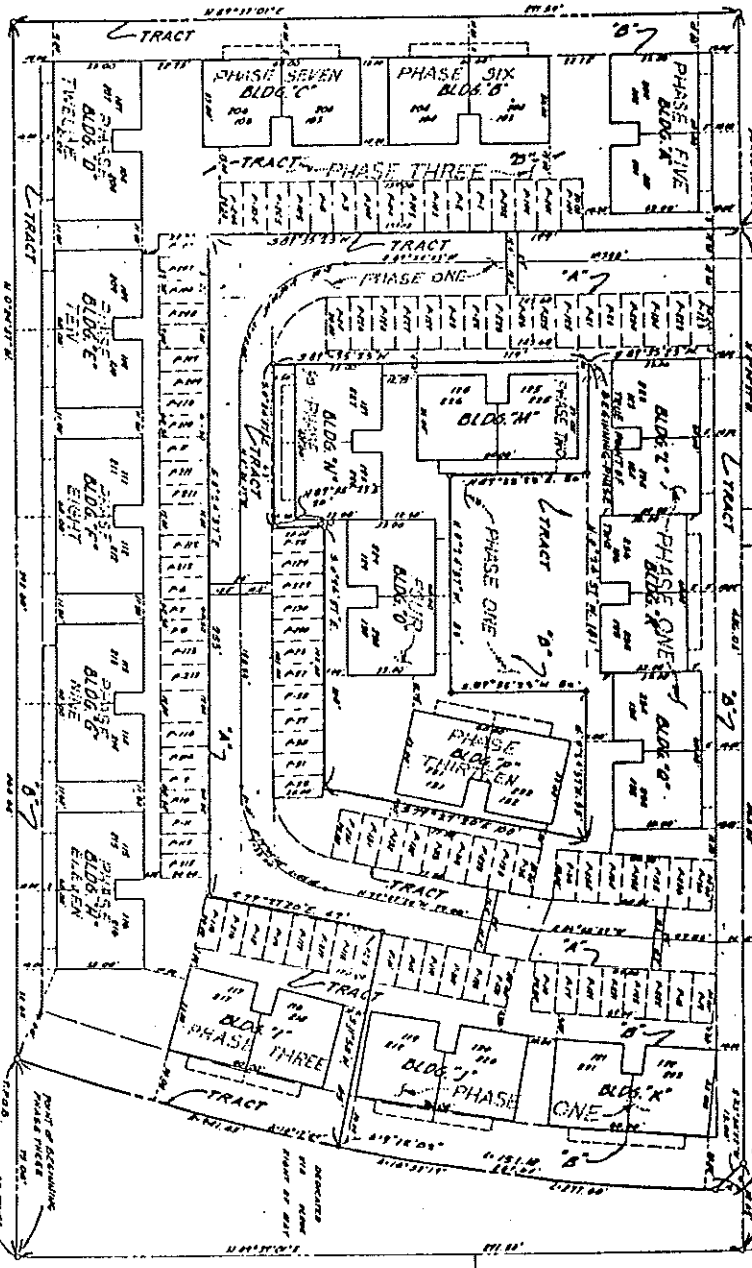


EXHIBIT "A"
 HORIZONTAL PROPERTY REGIME
 PARKING & COVERED PARKING MAP

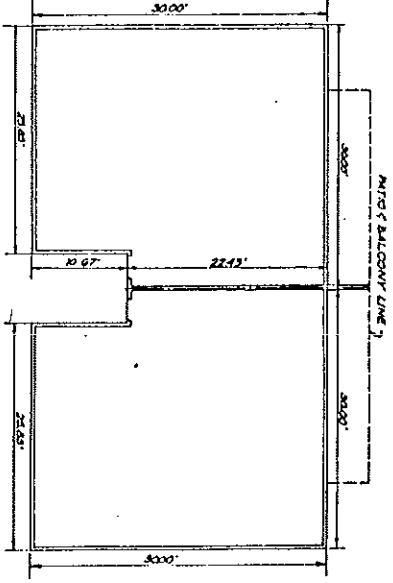


GENERAL NOTE:
 THE MEASUREMENTS OF BEARINGS AND DISTANCES SHOWN ON THIS MAP WERE OBTAINED BY THE SURVEYOR BY MEANS OF A THEODOLITE AND A STEEL TAPE. THE BEARINGS AND DISTANCES WERE MEASURED AT THE TIME OF THE SURVEY AND ARE GIVEN AS SHOWN ON THIS MAP.

84 282160

PROFILE ELEVATION SCHEDULE

NO.	DESCRIPTION	FINISH	ELEVATION
1	GRAVEL DRIVE	ASPH	2110
2	GRAVEL DRIVE	ASPH	2110
3	GRAVEL DRIVE	ASPH	2110
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99	GRAVEL DRIVE	ASPH	2110
100	GRAVEL DRIVE	ASPH	2110



TYPICAL UNIT'S
SCALE 1/8"

EXHIBIT "A"
HORIZONTAL PROPERTY REGIME
GARDEN CLUB CONDOMINIUMS



PAGE ONE

84 282100

LEGAL DESCRIPTION
GARDEN CLUB CONDOMINIUMS

A PART OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 3 NORTH, RANGE 3, EAST, GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 14 AS SHOWN ON THE MAP OF KAI ACRES FILED FOR RECORD IN BOOK 33 OF MAPS, PAGE 28 IN THE OFFICE OF THE RECORDER OF MARICOPA COUNTY, ARIZONA:

THENCE N. 0° 24' 37" W., ALONG THE EAST LINE OF LOT 14, A DISTANCE OF 338.88 FEET AND S. 89° 35' 23" W., 40 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIBED PARCEL OF LAND;

THENCE S. 89° 35' 23" W., A DISTANCE OF 199 FEET;

THENCE S. 0° 24' 37" E., PARALLEL WITH THE EAST LINE OF SAID LOT 14, A DISTANCE OF 250 FEET;

THENCE S. 78° 02' E., 60 FEET;

THENCE S. 11° 58' W., 85 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 941.45 FEET AND A RADIAL BEARING OF N. 11° 37' 11" E.;

THENCE EASTERLY, ALONG SAID CURVE HAVING A RADIUS OF 941.45 FEET THROUGH A CENTRAL ANGLE OF 9° 33' 58" FOR AN ARC LENGTH OF 157.18 FEET;

THENCE N. 0° 24' 37" W., 366 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT THAT PARCEL DESCRIBED AS FOLLOWS:

BEGINNING AT THE SAID SOUTHEAST CORNER OF LOT 14;

THENCE N. 0° 24' 37" W., ALONG THE EAST LINE OF LOT 14 A DISTANCE OF 338.88 FEET AND S. 89° 35' 23" W., 98. FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIBED PARCEL OF LAND;

THENCE CONTINUING S. 89° 35' 23" W, 114 FEET;

THENCE S. 0° 24' 37" E., 63 FEET;

THENCE N. 89° 35' 23" E., 20 FEET;

THENCE S. 0° 24' 37" E., 100 FEET;

THENCE S. 78° 02' E., 96 FEET;

THENCE N. 0° 24' 37" E., 55 FEET;

THENCE S. 89° 35' 23" W., 50 FEET;

THENCE N. 0° 24' 37" E., 83 FEET;

THENCE N. 89° 35' 23" E., 50 FEET;

THENCE N. 0° 24' 37" E., 45 FEET TO THE TRUE POINT OF BEGINNING.

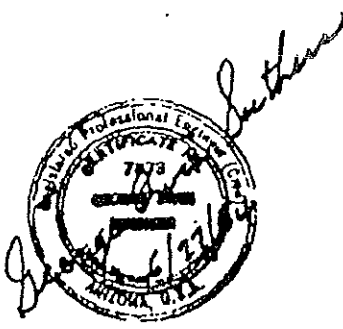


EXHIBIT B