

DECLARATION OF CONDOMINIUM  
AND  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
ABSOLUTE BOAT & RV STORAGE CONDOMINIUMS

DECLARATION OF CONDOMINIUM AND COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
ABSOLUTE BOAT & RV STORAGE LLC

This Declaration is made pursuant to and in compliance with A.R.S. Sections 33-1201, et seq., this \_\_\_\_ day of \_\_\_\_\_, 2019, by ABSOLUTE BOAT & RV STORAGE LLC, an Arizona \_\_\_\_\_, referred to as "Declarant."

W I T N E S S E T H:

WHEREAS, the Declarant is the fee owner of that certain real property situated in Mohave County, Arizona described on Exhibit A attached hereto.

WHEREAS, Declarant desires to develop the subject property, together with all buildings and improvements now or hereafter constructed on the property and all easements and rights appurtenant thereto (hereinafter collectively referred to as "the Property") as a non-residential storage condominium project; and

WHEREAS, Declarant desires to establish for its own benefit and for the mutual benefit of all future Owners who hold their interest subject to this Declaration, which is recorded in furtherance of establishing the general plan of condominium ownership for the Property and for establishing rules for the use, occupancy and management thereof, all for the purpose of enhancing and protecting the value, utility, desirability and attractiveness of the Property;

ARTICLE I

DEFINITIONS

The following words when used in this Declaration or any supplemental Declaration (unless the context shall prohibit) shall have the following meaning:

- (a) "Act" shall mean Sections 33-1201, et seq., Arizona Revised Statutes, pertaining to Condominiums in the State of Arizona.
- (b) "Association" shall refer to the ABSOLUTE BOAT & RV STORAGE OWNERS ASSOCIATION, LLC, whose membership shall include each Owner of a Condominium Unit in the Property and whose function shall be to serve as the OWNERS ASSOCIATION as defined in the Act. The Association will be incorporated under the name of ABSOLUTE BOAT & RV STORAGE OWNERS ASSOCIATION, LLC, an Arizona non-profit corporation prior to the conveyance of a Condominium Storage Unit by Declarant, but if such name is not available, the Declarant may organize the Association under such other name as the Declarant deems appropriate.
- (c) "Association Rules" shall mean and refer to the rules and regulations adopted by the Association pursuant to this Declaration and in furtherance of the By-laws and in accordance with the Act.

- (d) "Assessments" shall mean the charges against Owners to defray the Common Expenses as well as Initial Assessments, Annual Assessments, and 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.
- (e) "Board" shall mean the Board of Directors of the Association elected pursuant to the By-laws and serving as the governing body of the Association.
- (f) "Building" shall mean and refer to each of the Three (3) principal structures containing Condominium Storage Units on the Parcel and forming part of the Property as shown on the Plat.
- (g) "By-laws" shall mean the By-laws adopted by the Association pursuant to the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.
- (h) "Common Expenses" shall mean the actual and estimated costs for:
  - (1) maintenance, management, operation, repair and replacement of the Common Elements which are maintained by the Association;
  - (2) deficiencies arising by reason of unpaid Assessments;
  - (3) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
  - (4) utilities, including, but not necessarily limited to electricity, refuse collection and disposal, water (if any), landscaping services and related services;
  - (5) insurance and bonds required by this Declaration or any additional insurance and bonds obtained by the Board in its discretion;
  - (6) the establishment of reasonable reserves as the Board shall deem appropriate in its discretion;
  - (7) other miscellaneous charges incurred by the Association or the Board pursuant to this Declaration, the By-laws or Association Rules in furtherance of the purposes of the Association or in discharge of the duties and powers of the Association.
- (i) "Common Elements" or "Common Area(s)" shall mean the entire Property excluding the interior of the Condominium Units and shall include, but not necessarily be limited to, the exterior of the buildings, driveway surfaces, landscaped areas, restroom facilities, utility room, and infrastructure upon the subject property.
- (j) "Condominium Storage Unit," "Condominium Unit" or "Unit" shall mean a part of the property designed or intended for independent use as a storage unit, together with the pro rata fractional interest in the Common Elements and any exclusive and non-exclusive easements appurtenant thereto. Each Condominium Storage Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plat; provided, however, that no structural components of the Building in which each Condominium Storage Unit is located, and no pipes, wires, conduits, ducts, flues, shafts or utility, water or sewer lines (if any) situated

within such Condominium Storage Unit and forming part of any system serving one or more other Condominium Storage Units shall be a part of the Units.

- (k) "Declarant" shall mean ABSOLUTE BOAT & RV STORAGE, LLC.
- (l) "Declaration" shall mean this entire document as the same may from time to time be amended.
- (m) "Double Unit" shall refer to a Condominium Storage Unit measuring between twenty-two to twenty-six (22-26) feet in width and forty-five to fifty-five (45-55) feet in depth as further referenced on the Plat map attached hereto.
- (n) "Lender" shall mean (1) an institutional holder of a first mortgage or first deed of trust on a Condominium Storage Unit which is a bank, savings and loan association, insurance company, established mortgage company or other entity chartered under state or federal law; and (2) any person which is a holder of a first mortgage or first deed of trust on a Condominium Storage Unit.
- (o) "Occupant" shall mean a person or persons other than an owner in possession of a Condominium Storage Unit.
- (p) "Office Condominium Unit" shall refer to that Unit, if applicable, as designated on the Plat for use as an office, together with that Unit's pro rata share of the Common Elements.
- (q) "Owner" shall mean the person or persons who are vested with record title to a Condominium Storage Unit according to the records of the County Recorder of Mohave County, Arizona. However, Owner shall not include a person who holds an interest in a Condominium Storage Unit merely as security for the performance of an obligation. Declarant shall be considered the record Owner of any Condominium Unit prior to its initial conveyance by Declarant.
- (r) "Plat" means the condominium plat for ABSOLUTE BOAT & RV STORAGE LLC recorded at Fee # \_\_\_\_\_ on \_\_\_\_\_, 2019, in the records of the County Recorder of Mohave County, Arizona, and any amendments, supplements or corrections thereto.
- (s) "Person" shall mean a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.
- (t) "Property" shall mean the real property, the buildings, improvements and permanent fixtures located thereon and all easements and rights appurtenant thereto.
- (u) "Restrictions" shall mean the covenants, conditions, assessments, easements, liens and restrictions set forth in this Declaration.
- (v) "Single Unit" shall refer to a Condominium Storage Unit measuring approximately thirteen feet in width and forty-five to fifty-five (45-55) feet in depth as further referenced on the Plat map attached hereto.
- (w) "Unoccupied" with reference to any Condominium Storage Unit or Units shall mean any Condominium Storage Unit that has been constructed but not yet conveyed by Developer or Declarant.

## ARTICLE II

### DECLARATION OF CONDOMINIUM

#### Section 1. PROPERTY SUBJECT TO THIS DECLARATION:

Declarant is the owner of the real property which is to be the subject of this Declaration and which is to be held, transferred, sold, conveyed and/or occupied subject to this Declaration and which is more particularly described in Exhibit A attached hereto and incorporated by reference herein as though fully set forth.

Section 2. DECLARATION. Submission. Declarant hereby submits and subjects the property to a Condominium 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 Storage 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.

#### Section 3. DESCRIPTION OF PROJECT.

- (a) NAME. The property shall be known as ABSOLUTE BOAT & RV STORAGE.
- (b) DESCRIPTION OF THE SPACE OF THE BUILDINGS. Three (3) multi-condominium unit buildings which are to be constructed upon the said real property and shall be comprised of a total of Forty-Two (42) single width Condominium Units and Nine (9) double width Condominium Units.
- (c) CUBIC CONTENT SPACE OF CONDOMINIUM STORAGE UNITS. The cubic content space of each of the Fifty-One (51) Condominium Units and the buildings is set forth on the plat. The horizontal boundaries of each Condominium Storage Unit shall be the underside of the roof system and the top of the finished but undecorated floor. The vertical boundaries of each Condominium Storage Unit shall be the perimeter walls located on the perimeter lines of the respective Condominium Units as shown on the plat. Each Condominium Storage Unit shall be identified numerically as shown on the recorded plat.
- (d) PHASED DEVELOPMENT. This project will be constructed in three (3) phases. Building A as shown on the plat shall include sixteen (16) single width Condominium Storage Units, and two (2) double width units. Building B as shown on the plat shall include ten (10) single width Condominium Storage Units, and five (5) double width units. Building C as shown on the plat shall consist of sixteen (16) single width Condominium Storage Units, and two (2) double width storage units.

- (e) DESCRIPTION OF COMMON ELEMENTS. The Common Elements shall consist of the entire Property, excluding the Condominium Storage Units, the restroom and utility room.
- (f) FRACTIONAL INTEREST. Upon completion of the entire project there will be a total of sixty (60) fractional interest shares; each single Condominium Unit shall bear an undivided 1/60<sup>th</sup> fractional interest, and each double Condominium unit shall bear an undivided 1/30<sup>th</sup> fractional interest, in the entire Condominium project. At any stage of the development of the property, the Common Elements shall always be considered to be owned by each Unit Owner in proportion to the number of Units existing at the time.
- (g) MAINTENANCE BY OWNERS. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Condominium Unit, excluding any portion of the roof system except as herein provided. Such obligation shall include, but not be limited to, the maintenance of all finish flooring and any other materials constituting the finished surface of floors, interior finished surfaces of interior walls; repair and replacement of all doors; the maintenance of all utility lines serving in each Owner's Condominium Unit between the point at which the same enters the respective Condominium Unit and the points where the same joins the utility line serving other Condominium Units. An Owner may make non-structural alterations and/or other improvements that do not require City permits and/or regulatory approvals within his Condominium Unit. An Owner shall not make any structural or exterior alterations to the exterior of the buildings or to any of the common elements.
- (h) UTILITIES. Any utilities (if any), including water, electrical and sewer service for individual Condominium Units will be metered to the Association with such utility charges to be the responsibility of the Association. The foregoing notwithstanding, any Condominium Unit that should have an individual electricity flow meter to monitor the amount of electric usage in that specific Condominium Unit, the Owner of that Condominium Unit shall be responsible to pay to the Association the amount of the usage.

### ARTICLE III

#### OWNERS ASSOCIATION

Section 1. ABSOLUTE BOAT & RV STORAGE OWNERS ASSOCIATION, LLC, a non-profit corporation organized under and by virtue of the laws of the State of Arizona governing non-profit corporations, shall accept responsibility for and provide each necessary and appropriate action for the proper maintenance, repair, replacement, operation, management, beautification and improvement of that certain property and improvements to be used in common by and for the benefit of the Owners of Condominium Storage Units constructed on said properties. Pursuant to A.R.S. Section 33-1243, Declarant shall have control of the Association from its incorporation until the earlier of (1) ninety (90) days from the conveyance of Seventy-five percent (75%) of the Condominium Storage Units which may be conveyed to

Owners other than Declarant, or (2) Five (5) years after Declarant conveys the first Condominium Storage Unit in the Project to an Owner other than Declarant. For purposes of this section, Units in the Project shall be deemed to be Fifty-One (51) total Condominium Storage Units.

Section 2. Until such time as Thirty-Eight (38) Condominium Storage Units in the above-described properties have been conveyed to the purchasers thereof, all right, discretion, power and authority herein granted to said Owners Association and said Condominium Storage Unit Owners through said Owners Association, including the right to collect assessments (excepting reserves for replacement) shall, at the option of Declarant, remain with Declarant directly or through said Owners Association. Upon the sale of not less than Thirty-Eight (38) of said Condominium Storage Units, or unless earlier required by Declarant, all such right, discretion, power and authority shall be assumed by the Condominium Storage Unit Owners who are then members of the Owners Association, through their Officers and Directors who shall be duly elected at such time.

Section 3. Until such time as Thirty-Eight (38) of the Condominium Storage Units have been conveyed or transferred from Declarant to the purchasers thereof, Declarant shall be liable for any assessment referred to herein for any Unoccupied Condominium Storage Unit. In lieu of payment of such assessment, Declarant will assume responsibility for month-to-month maintenance, repair and management of the Common Elements until these functions are assumed by the Owners. In the event Declarant shall not convey any Condominium Storage Unit but shall utilize any Condominium Storage Unit for rental use or any other beneficial use (except as a model), Declarant shall be liable for assessments referred to herein. For purposes of this paragraph, assumption of control of the Association is defined as having passed, conclusively, to the Owners, collectively, upon completion of the following requirements:

- (a) Declarant shall notify the Owner of each Condominium Storage Unit that the Declarant has resigned and the Owners Association shall assume control effective Thirty (30) days after date of notice.
- (b) Declarant shall deliver the Owners Association corporate minutes, records and seal to any one of the owners of record receiving such notice or to a committee organized by the owners of record for such purpose.

There shall be no outstanding or accrued debts against the Association at the time of assumption of control by the Owners beginning with the date of control of the Association by the Owners. Declarant or its successor shall at no time be responsible for any assessment against Condominium Storage Units or land not available for occupancy or available for occupancy, but unsold, except as in this Article III, Section 3.

Except as provided by statute in case of condemnation or substantial loss to the units and/or common elements of the Condominium Project, the Owners Association shall not be entitled to:

- (a) By act or omission, seek to abandon or terminate the Condominium Project;
- (b) Change the pro rata interest or obligations of any individual unit for the purpose of:
  - 1. Levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation award; or
  - 2. Determining the pro rata share of ownership of each Condominium Storage Unit in the common elements.
- (c) Declarant may partition or subdivide any of the double width Condominium Storage Units as shown on the Plat map into single width units for the purpose of either renting or selling such units at Declarant's discretion.
- (d) 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.)
- (e) 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.

All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Condominium Storage Units and not the Condominium Project as a whole.

#### ARTICLE IV

##### PROPERTY RIGHTS

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

- (a) The rights of the Association to suspend voting rights and right to use of the common elements by an Owner for any period during which any assessment against his Condominium Storage Unit remains unpaid and for a period not to exceed Sixty (60) days for any infraction of this Declaration.
- (b) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such



conditions as may be agreed upon by the Owners agreeing to such dedication or transfer.

- (c) The right of Declarant (and its sales agents and representatives) to the exclusive use of the Common Area and the facilities thereof for display of signage and exhibit purposes in connection with the sale of Condominium Storage Units, which right Declarant hereby reserves. No such use by Declarant or its sales agents or representatives shall otherwise restrict the Owners in their use and enjoyment of the Common Areas. Owners are prohibited from any display of signage upon any common elements.
- (d) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Areas.
- (e) The right of the Association in accordance with its Articles and By-laws to borrow money for the purpose of improving the Common Area and facilities thereon.

Section 2. DELEGATION OF USE. Any Owner may delegate, in accordance with this Declaration, his right of enjoyment to the Common Areas and facilities to the members of his family or his tenants.

## ARTICLE V

### MEMBERSHIP AND VOTING RIGHTS

Section 1. MEMBERSHIP. Every Owner of a Condominium Storage Unit which is subject to the covenants of record and assessments shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to such Unit or by intestate succession, testamentary disposition, foreclosure of a mortgage of record or such other legal process that is now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void.

Upon transfer of ownership, the incoming property owner may be assessed by the Association a reasonable transfer fee for each such transfer.

Section 2. VOTING RIGHTS. All Owners shall be entitled to one vote for each single width unit owned, and two votes for each double width unit owned. When more than one person holds an interest, all such persons shall become Members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be allowed with respect to any single width unit, and in no event shall more than two votes be allowed with respect to any double width unit. Declarant shall have triple the number of votes indicated above for each unit type. No fractional votes shall not be allowed.

## ARTICLE VI

## COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. PERSONAL OBLIGATION FOR ASSESSMENTS. Each Owner of a Unit, except as provided by Article III, Section 3 hereof, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) initial assessment at time of purchase; (2) annual assessments or charges; and (3) special assessments for capital improvements, such assessments to be established and collected as provided in the Articles and By-laws. The initial, annual and special assessments, late payment penalties, if any, together with interest thereon and reasonable attorneys' fees and costs of collection thereof, shall be a continuing lien on the Unit. Each such assessment, together with interest, costs, reasonable attorneys' fees and costs of collection, shall also be the personal obligation of the person who was the Owner of such Unit at the time when the assessment fell due.

Section 2. PURPOSE OF ASSESSMENTS. The assessments levied by the Association shall be used to pay utility charges and for the improvement and maintenance of the Common Areas, and for all purposes set forth in the Articles, including but not limited to management fees, insurance premiums unless otherwise provided for, expenses for maintenance, repairs and replacements of Common Areas, reserves for contingencies, taxes, charges for water and other utilities for the Common Areas.

By appropriate action, the Association may establish and maintain a reserve fund for replacement by the allocation and payment monthly to such reserve fund an amount to be designated from time to time by the Board of Directors. Such fund shall be depository and may be in the form of cash deposit or invested in obligations of, or fully guaranteed as to principal by the United States of America. The reserve fund is for the purpose of effecting replacement or repair because of damage, depreciation or obsolescence to Common Area Elements.

Section 3. UNIFORM RATE OF ASSESSMENT. The initial, annual, and special assessments will be fixed at a uniform rate for all single wide units, and shall be double the single unit rate amount for double wide units. The initial assessment is collected upon the close of escrow of the unit. The annual assessment will be due and payable on the first day of January of each year, and will be deemed late if not received by February 1 of that year. Any special assessment is due and payable in a lump sum payment within 30 days from the assessment being levied, unless otherwise provided for by the Board of Directors.

Section 4. COMMENCEMENT OF INITIAL AND ANNUAL ASSESSMENTS. An initial assessment per unit shall be paid by a party taking ownership of a unit and is due upon the close of escrow. The initial assessment shall be \$375.00 for all single wide Units, and \$750.00 for all double wide Units: provided; however, that the Board of Directors or the Declarant may declare a different amount for an initial assessment.

An annual assessment shall commence upon the close of escrow and conveyance from Declarant to an Owner, partial months to be prorated, except as provided in Article III, Section 2. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each unit at least thirty (30) days in advance of each annual assessment period. Written notice of advance assessments shall be sent to every Owner subject thereto.

Section 5. SPECIAL ASSESSMENT FOR CAPITAL IMPROVEMENTS. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of members who are voting in person or by absentee ballot at a meeting duly called for this purpose.

Section 6. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 5 shall be sent to all members not less than Thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of absentee ballots entitled to cast Twenty-five percent (25%) of all votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. NONPAYMENT OF ASSESSMENTS – REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of Eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Unit. Any costs, including attorney fees, will be included in the amount due to the Association and will be incorporated into the lien against the unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his/her Unit.

Section 8. ENFORCEMENT REMEDIES. The Association retains all rights under the law to enforce all rules and regulations contained herein along with those regulations stated within the Association By-laws. Enforcement remedies shall include, but not limited to, levying administrative fines against Owners for violations of the rules and regulations. Administrative fines shall be \$100 for the first violation of any rule, \$200 for a second violation, and \$500 for the third violation. Each day a violation exist is deemed to be a separate violation. Administrative fines are due and payable to the Association within 30 days from the date of issuance. Un-paid administrative fines, along with collections costs and attorney fees, shall be placed as a lien against the unit.

Section 9. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Unit shall not affect the assessment lien. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE VII

### ARCHITECTURAL CONTROL

ARCHITECTURAL APPROVAL. No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association. In addition to the foregoing, any improvements must be made with all required regulatory approvals and permits.

## ARTICLE VIII

### COMMON WALLS

The rights and duties of Owners with respect to Common Walls shall be as follows:

- (a) The Owners of contiguous Units who have a Common Wall or Walls shall both equally have the right to use such wall or walls provided that such use by one Owner does not interfere with the use and enjoyment of same by the other Owner.
- (b) In the event that any Common Wall(s), Door(s), or Mullion(s) are damaged or destroyed through the act of an Owner or any of his agents or tenants (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Common Wall(s), Door(s), or Mullion(s) without cost to the other adjoining Owner or Owners.
- (c) Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any Common Wall or Walls without the prior consent of the Declarant or the Board of Directors.
- (d) In the event of a dispute between Owners with respect to the construction, repair or rebuilding of a Common Wall or Walls, or with respect to the bearing of the cost thereof, the Owners shall submit the dispute to the Board, the decision of which shall be final and binding on all Owners.

- (e) No owner shall affix any load bearing item to any wall which adds load to the wall, such as shelving and the like.

## ARTICLE IX

### REPAIR AND MAINTENANCE

Section 1. BY OWNER. Each Owner of a Condominium Storage Unit shall maintain, repair, replace and restore at his own expense all portions of the Unit, including doors and such maintenance, repair, replacement or restoration shall be subject to control and prior written approval of the Association. No owner shall remove, alter, injure or interfere with any shrubs, trees or planting placed upon any property by Declarant or the Association without first obtaining the written consent of the Association.

Section 2. BY THE ASSOCIATION. The Association shall have full power and control, and it shall be its duty to maintain, repair and make necessary improvements to and pay for out of the maintenance fund to be provided all Common Areas and the improvements thereon, and all private driveway aisles, parking area, walks and other means of ingress and egress within the project. This shall include the exterior portions of the Units and the buildings (except for the Units and doors); the land upon which the buildings are located; the airspace above the buildings, all bearing walls, columns, floors, roofs, slabs, foundations, storage spaces, doors, all water pipes, ducts, conduits, wires and all other utility installation of the building, wherever located, except the outlets thereof when located within the Condominium Storage Units. The Association shall further be empowered with the right and duty to periodically inspect all Common Areas in order that minimum standards of repair, design, color and landscaping shall be maintained for appearance, harmony and conservation within the entire project. The Board shall be the sole judge as to the appropriate maintenance of the Common Areas.

Section 3. GENERAL MAINTENANCE. In the event that the Association determines that an improvement of the Common Area is in need of repair, restoration or painting, or that the landscaping is in need of installation, repair or restoration, the Association shall undertake to remedy such condition and the cost thereof shall be charged to the Owners and shall be subject to levy, enforcement and collection by the Association in accordance with the assessment lien procedure provided for in this Declaration. The Association shall have a limited right of entry in and upon all Common Areas as defined above and the exterior of all Condominium Storage Units for the purpose of taking whatever corrective action may be deemed necessary or proper by the Association. Nothing in this Article shall in any manner limit the right of the Owner to exclusive control over the interior of his Unit. Provided, however, that the Owner shall grant the right of entry therein to the Association or any other person or other Owner or Owners, or their authorized representatives, in case of any emergency originating in or threatening his Unit whether the Owner is present or not, when so required to enter his Unit for the purpose of performing installation, alterations or repair to the mechanical or electrical services, including water and other utility services; provided that reasonable requests for entry are made and that such entry is at a time reasonably convenient to the Owner whose Unit is to be entered. In case

of an emergency, such right of entry shall be immediate without the necessity for a request having to be made.

Section 4. REPAIR NECESSITATED BY OWNER. In the event that the Association determines that the Common Areas are in need of improvement, repair, restoration or painting or that the landscaping is in need of installation, repair or restoration which has been caused by an Owner or any person designated by the Owner, then the Association shall give written notice to the Owner of the conditions complained of. Unless the Board has approved in writing corrective plans proposed by the Owner to remedy the condition complained of within such reasonable period of time as may be determined by the Board after said written notice is first given, and such corrective work so approved is completed thereafter within the time allotted by the Board, the Association shall undertake to remedy such condition or violation complained of. The cost thereof shall be deemed to be an assessment to such Owner and his/her Unit and subject to levy, enforcement and collection provided for herein or in the Articles or By-laws. The Association shall have the same right of entry in and upon all Common Areas and Units as defined. The Board shall have the sole right to determine whether any such costs expended by the Association were related to general maintenance or were repairs necessitated by an Owner, and the determination of the same shall be binding and final as to an Owner.

## ARTICLE X

### EASEMENTS

Section 1. 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, cables, conduits and public utility lines, 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 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 2. PUBLIC UTILITIES. Easements and rights over the Property for the installation and maintenance of electricity lines, telephone lines, water lines, drainage facilities and such other public utilities needed to serve the Property are hereby reserved by Declarant, together with the right to grant and transfer the same; provided, however, such easements and rights shall not unreasonably interfere with the use of the Common Elements and the Units by the Owners or their tenants.

Section 3. EASEMENTS FOR ENCROACHMENTS. If any portion of the Common Elements encroaches upon any Unit, or if any Unit encroaches on 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 4. DEVELOPMENT EASEMENTS FOR DECLARANT. Until all Units have been sold by Declarant, they 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 Property for construction, display (including the use of the Condominium Storage 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 Storage Units within the Property; provided, however, that no such use by Declarant or its agents shall otherwise restrict Owners in the reasonable use of their Units.

## ARTICLE XI

### DECLARANT'S RIGHTS AND RESERVATIONS

Section 1. AUTHORITY TO CONSTRUCT AND SELL UNITS. Declarant shall have the right to construct, repair, remodel, redecorate, reconstruct and sell Units for which provision has been made in this Declaration or any amendment thereto.

Section 2. RIGHT TO ASSIGN. The rights of Declarant hereunder and elsewhere in this Declaration may be assigned by Declarant to any successor in interest to any portion of Declarant's interest in any portion of the Property by a recorded written assignment.

Section 3. IRREVOCABLE POWER OF ATTORNEY. Each Owner hereby grants, upon acceptance of his deed to his Condominium Unit, an irrevocable special power of attorney to Declarant to execute and record all documents and maps necessary to allow Declarant to exercise its rights under this article.

Section 4. NONEXCLUSIVE USE OF COMMON ELEMENTS AND PRIVATE DRIVES AND WALKWAYS. Declarant shall be entitled to the nonexclusive use of the Common Elements and any facilities thereon, without further cost for access, ingress, egress, use or enjoyment in order to show the Property to its prospective purchasers and dispose of the Project as provided herein. Declarant, its successors and tenants, shall also be entitled to the nonexclusive use of any portions of the Project which comprise drives and walkways for the purpose of ingress, egress and accommodating vehicular and pedestrian traffic to and from the Property.

Section 5. ADDITIONAL DECLARANT RIGHTS AND RESERVATIONS. In addition to the rights set forth in Sections 1 through 4 of this Article, Declarant has other and additional rights and reservations set forth in various other sections of this Declaration.

Section 6. DEVELOPMENT RIGHTS OF DECLARANT. While Declarant owns any Condominium Storage Units or Property, Declarant hereby reserves and grants to itself, its successors and assigns the following development rights (which may be exercised without the consent of any other Owner or any Mortgagee, but otherwise subject to the requirements of this Declaration):

- (a) Add real estate to this Project, as provided in Section 8 of this Article;
- (b) Create easements, Units, Common Elements or Limited Common Elements within the Project in conjunction with Declarant's exercise of rights under Section 8 of this Article;
- (c) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units within the Project in conjunction with Declarant's exercise of rights under Section 8 of this Article;
- (d) Amend the Declaration during any period of Declarant control, pursuant to A.R.S. Section 33-1243D and Article III above to comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions or insuring mortgage loans or governing transactions involving mortgage instruments.

Section 7. LEGAL DESCRIPTION OF REAL PROPERTY SUBJECT TO DECLARANT'S DEVELOPMENT RIGHTS. The legal description of the Property to which these development rights apply is set forth in Exhibit A attached hereto and incorporated herein by reference.

Section 8. EXERCISE OF DECLARANT'S DEVELOPMENT RIGHTS. Prior to exercising any development right, the Declarant shall prepare, execute and record an amendment to the Declaration referencing such right, together with a new Condominium Plat showing the boundaries of the portion of the Property as to which the development right is exercised if the previously recorded Condominium Plat of the Project does not show the same. The amendment to the Declaration shall assign an identifying number to each new Unit created, if not shown on the previous Condominium Plat, and shall reallocate the interests of all Units in the Common Elements giving each Unit an equal interest therein. The amendment shall describe any Common Elements and any Limited Common Elements created, and in the case of the Limited Common Elements, designate the Unit or Units to which each is allocated unless set forth on the prior Condominium Plat.

## ARTICLE XII

### USE RESTRICTIONS



Section 1. STORAGE USE. A Condominium Storage Unit shall be used, improved and devoted exclusively to storage uses. No activity, except passive storage, shall be allowed. No Condominium Storage Unit shall be used for purposes of manufacture, fabrication, sales (whether at wholesale or resale) or any other form of business, industrial or construction use. No Unit shall be allowed to be used at any time for living quarters or any residential use.

Section 2. ANIMALS. No animals, whether fowl, poultry, livestock or domestic animals shall be allowed to reside or be maintained in any Unit.

Section 3. EXTERNAL FIXTURES. No external items such as, but not limited to, television and radio antenna, flag poles, clothes lines, wiring, insulation, air conditioning equipment, water softening equipment, fences, awnings, ornamental screens or sunshades shall be constructed, erected or maintained on the Property, including any Buildings thereon unless approval is obtained in writing from the Board of the Association. 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 4. UTILITY SERVICE. No lines, wire or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon any property unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures unless approved by the Board. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Board.

Section 5. TEMPORARY STRUCTURES. No temporary buildings or structure of any kind shall be used at any time for a residence on the property.

Section 6. PARKING. Unless otherwise permitted by the Board of Directors or the Declarant, no motor vehicle (including a motorcycle), trailer, camper, boat or similar item, and no bicycle shall be permitted to remain placed upon the Property unless parked or placed within the Unit; provided, however, temporary parking of motor vehicles may be permitted. For purposes hereof, "temporary parking" shall mean parking of vehicles belonging to Owners or agents parking of 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, agents or Occupants for loading and unloading purposes. 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 to be 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 7. 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. REPAIRS. No repairs of any type shall be made upon the property, including without limitation, boats and motor vehicles of any type, detached machinery, equipment or fixtures shall be made anywhere upon the Property.

Section 9. UNSIGHTLY ITEMS. All rubbish, debris or unsightly materials or objects of any kind shall be regularly removed from the Condominium Storage Units and shall not be allowed to accumulate therein or thereon. Refuse containers and machinery and equipment not a part of Units shall be prohibited upon any Condominium Storage Units unless obscured from view of adjoining Condominium Storage Units and Common Elements. Trash and garbage 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. Declarant will not provide for trash or refuse removal. 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 10. 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 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 11. DECLARANT'S EXEMPTION. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant or its duly authorized agents of structures, improvements or signs necessary or convenient to Developer for sale, operation or other disposition of Property.

Section 12. NUISANCES. No nuisance shall be permitted to exist to operate upon any property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. No rubbish, debris, material or containers of any kind shall be placed or permitted to accumulate upon or adjacent to property, and no odors shall be permitted to arise therefrom, so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. No exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property. The Board in its sole discretion shall have the right to determine the existence of any nuisance.

Section 13. RENTING. Subject to the foregoing obligations, the Owners of the Units shall have the right to lease same provided that said lease is made subject to the covenants and restrictions contained in this Declaration and further subject to the By-laws and Association rules. Each Owner shall be responsible for compliance by said Owner's agent, tenant, guest, invitee, lessee, licensee, their respective servants and employees with the provisions of said Declaration, By-laws and Association rules. The Owner's failure to so insure compliance by such persons shall be grounds for the same action available to the Board by reason of said Owner's own non-compliance.

Section 14. NOISE. No Owner, his agents, tenants, employees or visitors shall be allowed to make or cause improper noises in the building or common areas, nor in any way interfere with the use and enjoyment of other Units by other Owners.

Section 15. EXPLOSIVES AND FLAMMABLE ITEMS. No Condominium Storage Unit shall be allowed to be used for storage of any explosive or flammable substances, except as to petroleum products (gasoline or diesel) which might be located in fuel tanks of motor vehicles or boats incidental to their use. No other petroleum products shall be allowed to be stored on the premises except as contained in legally authorized and approved containers not to exceed 50 gallons per Unit. No explosive devices of any nature whatsoever may be stored within any Unit.

Section 16. ODORS. No Owner shall permit any Unit to be used for or to contain any substance which shall emit noxious and/or offensive odors, whether toxic or otherwise, which may or does permeate to and/or affect the use and enjoyment of any other Unit.

Section 17. FIRE HAZARDS. No Owner shall occupy, use or store any materials in any Unit, not permit any Unit to be occupied or used for any purpose which would increase the premium for fire insurance on the common areas over the normal rates applicable to mini storage facilities. Upon notice that any such activity is or has been taking place, or that any such materials have been, are or will be stored upon said premises, the Owner of the respective Unit(s) shall immediately cause same to be removed.

Section 18. COMPLIANCE WITH LAW. Except for the Office Unit, each Unit shall be used and occupied solely for storage purposes. No Unit shall be used for any purpose in violation of any state, federal or local statute or ordinance or of any regulation, order or directive of a governmental agent as such statutes, ordinances, regulations, orders or directives now exist or may hereafter provide concerning the use and safety of the Unit and common areas. On the breach of any provision hereof by any Owner, the Association may, at its option, order such use to terminate, and that failing, enter upon the premises of the Unit and terminate such use.

Section 19. SIGNS. No sign whatsoever (including but not limited to, commercial, political and similar signs) shall be erected or maintained on any Property except:

- (a) Such signs as may be required by legal proceedings; signs displayed with City issued permits (name of the development), unit identification numbers, restroom identification, parking space identification, ingress/egress, or any other sign required by law or approved by Board.

Section 20. RULES AND REGULATIONS. The Association 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 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.

### ARTICLE XIII

#### INSURANCE

Section 1. AUTHORITY TO PURCHASE. Commencing not later than the date when a Unit is conveyed to a Person other than Declarant, the Board shall have the authority to and shall obtain the insurance provided for in this Article.

Section 2. HAZARD INSURANCE. The Board shall obtain a master or blanket policy of property insurance on the entire Property, including the Units and the Common Elements, 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.

Section 3. 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 also include protection against water damage liability, liability for non-owned 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 4. 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 5. 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 6. 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.
- (c) 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 thirty (30) 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 defense based on co-insurance or on invalidity arising from acts of the insured.

Section 7. 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 provision herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance.

Section 8. INSURANCE OBTAINED BY OWNERS. An Owner or Occupant shall be permitted 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 Unit. An Owner may carry additional hazard insurance covering his Unit and improvements as well as additional liability insurance covering exposure from the ownership or use of the Common Elements.

## ARTICLE XIV

### DESTRUCTION OF IMPROVEMENTS

Section 1. 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.
- (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 reserves and/or a special assessment equal to twenty-five percent (25%) or less of the then aggregate annual regular Assessments for all Condominium Storage Units will completely cover the estimated cost of reconstruction, then the Board shall cause notice to be sent to all Owners 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 at least twenty-five percent (25%) of the Owners based on one (1) vote for each Unit, object in writing to such reconstruction as indicated in such notice, the Board shall call a special meeting of the Owners pursuant to Section 2. In the event that the foregoing requirements are satisfied and the satisfied and requisite numbers 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 a uniform special assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.
- (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 pursuant to Section 2.
- (e) If the Board determines that any Unit has become unusable by reason of its total or partial destruction, assessments may abate against the Owner

thereof until 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 2. RECONSTRUCTION BY VOTE. If reconstruction is not to take place pursuant to Section 1, as soon as practicable after the 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 of not less than Seventy-five percent (75%) of the Owners based on One (1) vote for each Unit, determine not to proceed with such reconstruction, reconstruction must take place and the Board shall levy a uniform special assessment against each Owner at such time and in such amount as the Board shall determine is necessary to cover the costs of reconstruction in excess of insurance proceeds and available reserves.

Section 3. 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 4. 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 Mohave County, Arizona, whose accounts are insured by the Federal Deposit 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 consistent with the provisions of this Declaration. Disbursement of such funds shall be made only upon the signatures of two members of the Board. As soon as practicable after notification of the receipt of insurance proceeds, 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 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 of a specified sum for performance and execution of the work therein described, and shall have provisions for periodic disbursement of funds,

which shall be consistent with procedures then followed by prudent lending institutions doing business in Mohave County, Arizona. The Board may employ a licensed architect to supervise the repair and rebuilding to ensure that all work, services and supplies are in conformity with the requirements of the construction contract.

Section 5. TERMINATION. If Seventy-five percent (75%) or more of the Owners elect not to proceed with the reconstruction at the special meeting held pursuant to Section 2, the Board shall divide the insurance proceeds and then available reserves into as many shares as there are then Units, said shares to be in the same proportion as the Owners' respective percentage interests in the Common Elements. 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 Condominium pursuant to the Act.

Section 6. NEGOTIATIONS WITH INSURER. The Board shall have full authority to negotiate in good faith with a representative of the insurer of a totally or partially destroyed Building or any other portion of the Common Elements, and to make settlements with the insurer for less than full 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.

Section 7. REPAIR OF CONDOMINIUM UNITS. Installation or improvements to and repair of any damage to the interior of a Condominium Storage Unit shall be made by and at the individual expense of the Owner of that 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 8. PRIORITY. Nothing contained in this Article shall entitle an Owner to priority over any Lender under a lien encumbering his Unit as to any portion of insurance proceeds allocated to such Condominium Storage Unit.

## ARTICLE XV

### GENERAL PROVISIONS

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



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

Section 3. COVENANTS TO RUN WITH THE LAND; TERM; AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the Condominium Storage Units and Common Areas for the term of Twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of Ten (10) years. Except in cases of amendments that may be executed by the Declarant in the exercise of its development rights under this Declaration or under Section 33-1220 of the Condominium Act, by the Association under Sections 33-1206 or 33-1216(D) of the Condominium Act, or by certain Unit Owners under Sections 33-1218(B), 33-1222, 33-1228(B) of the Condominium Act, and except to the extent permitted or required by other provisions of the Condominium Act, the Declaration, including the Plat, may be amended by vote of the Unit Owners to which at least Sixty-seven percent (67%) of the votes in the Association are allocated, at any time during the initial term hereof or any renewal term and without regard to whether such amendment has uniform application to the Units or the Condominium as a whole.

Any amendment adopted by the Unit Owners as provided herein shall be signed by the President or Vice President of the Association and shall be recorded in the Official Records of the Mohave County, Arizona, Recorder. Any such amendment shall certify that the amendment has been approved as required by this section. Any amendment made by the Declarant pursuant to this Declaration of the Condominium Act shall be executed by the Declarant and shall be recorded in the Official Records of the Mohave County, Arizona Recorder.

Section 4. VIOLATION OF LAW. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.

Section 5. CONSTRUCTION. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan for the development of a Condominium storage facility 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 6. 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 7. NUISANCE. The result of every act or omission whereby any provision or restriction contained in this Declaration or any provision contained in the By-laws 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 8. ATTORNEYS' FEES. In the event any action is instituted to enforce any of the provisions contained in this Declaration, the By-laws 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 9. NOTICES. Any notice to be given to an Owner or the Association under the provisions of this Declaration shall be in writing.

Section 10. EFFECT OF DECLARATION. This Declaration is made for the purpose 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 By-laws or Association Rules are determined to be unenforceable in whole or in part or under certain circumstances.

Section 11. PERSONAL COVENANT. To the extent the acceptance of a conveyance of a Unit creates a personal covenant between the Owner of such 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 12. 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 or their duties.

Section 13. ALLOCATION OF REAL PROPERTY TAXES. After a Condominium Storage Unit in the Project has been sold to an Owner, other than Declarant, each Unit shall be separately taxed and assessed and no separate tax may be rendered against any Common Elements. Any portion of the Common Elements which Declarant reserves the right to withdraw shall be separately taxed and assessed to the Declarant and Declarant alone is responsible for payment of such taxes while Declarant retains the right to withdraw that portion of the Property.

Section 14. USE OF FUNDS COLLECTED BY THE ASSOCIATION. All funds collected by the Association, including assessments and contributions to 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. NOTIFICATION OF SALE AND TRANSFER FEE. Concurrently with the consummation of the sale or other transfer of any Condominium Storage Unit any transferee shall notify the Association in writing of such transfer and shall accompany such written notice with a non-refundable transfer fee to cover Association documentation and processing. The written notice shall set forth the name of the transferee and his transferor, the unit number of the Condominium Storage 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. Notwithstanding the other provisions hereof, this section shall not apply to a lender who becomes an Owner by a foreclosure proceeding or any deed of assignment in lieu of foreclosure.

Section 16. EMERGENCY VEHICLES AND PERSONNEL. Emergency vehicles and/or personnel shall have the right to access all Common Areas herein described when on the premises in response to any emergency or in the abatement of a public nuisance.

IN WITNESS WHEREOF the undersigned has signed this document the date and year above written.

ABSOLUTE BOAT & RV STORAGE LLC

By \_\_\_\_\_  
Kurt J. Keating, Managing Partner

STATE OF \_\_\_\_\_ )  
 ) SS:  
County of \_\_\_\_\_ )

Before me this \_\_\_\_ day of \_\_\_\_\_, 2019, personally appeared Kurt J. Keating who acknowledged himself to be the Managing Partner of ABSOLUTE BOAT & RV STORAGE LLC; that he as such Managing Partner of ABSOLUTE BOAT & RV STORAGE LLC being authorized to do so executed the foregoing instrument for the purposes therein contained by signing the name of the LLC as Declarant by himself as Managing Partner.

WITNESS my hand and official seal.

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Notary Public in and for the  
County and State Aforesaid

My Commission Expires:

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## EXHIBIT A