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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM AND  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE LAKESHORE VILLAGE CONDOMINIUM**

## TABLE OF CONTENTS

### ARTICLE I

DEFINITIONS .....	1
Section 1.0 "ARCHITECTURAL COMMITTEE" .....	1
Section 1.1 "ARCHITECTURAL COMMITTEE RULES" .....	1
Section 1.2 "ARTICLES" .....	1
Section 1.3 "ASSOCIATION" .....	1
Section 1.4 "ASSOCIATION RULES" .....	2
Section 1.5 "BOARD" .....	2
Section 1.6 "BUILDING" .....	2
Section 1.7 "BYLAWS" .....	2
Section 1.8 "COMMON EXPENSES" .....	2
Section 1.9 "CONDOMINIUM" .....	2
Section 1.10 "CONDOMINIUM DOCUMENTS" .....	2
Section 1.11 "DECLARANT" .....	2
Section 1.12 "DECLARATION" .....	2
Section 1.13 "ELIGIBLE INSURER OR GUARANTOR" .....	2
Section 1.14 "ELIGIBLE MORTGAGE HOLDER" .....	2
Section 1.15 "FIRST MORTGAGE" .....	2
Section 1.16 "FIRST MORTGAGEE" .....	3
Section 1.17 "GENERAL COMMON ELEMENTS" .....	3
Section 1.18 "IMPROVEMENTS" .....	3
Section 1.19 "LIMITED COMMON ELEMENTS" .....	3
Section 1.20 "MEMBER" .....	3
Section 1.21 "OWNER" .....	3
Section 1.22 "PLAT" .....	3
Section 1.23 "PURCHASER" .....	3
Section 1.24 "SINGLE FAMILY" .....	3
Section 1.25 "UNIT" .....	4
Section 1.26 "UNIT ESTATE" .....	4

### ARTICLE II

DESCRIPTION OF CONDOMINIUM .....	4
Section 2.0 <u>Description of the Project.</u> .....	4
Section 2.1 <u>Description of the Boundaries of Each Building.</u> .....	4
Section 2.2 <u>Description of the Boundaries of Each Unit.</u> .....	5
Section 2.3 <u>Description of General Common Elements.</u> .....	5
Section 2.4 <u>Description of Unit as Separate Parcel of Real Estate.</u> .....	5
Section 2.5 <u>Fractional Interest.</u> .....	5
Section 2.6 <u>Limited Common Elements.</u> .....	5
Section 2.7 <u>Prohibition of Severance or Partition of a Unit Estate.</u> .....	6

Section 2.8	<u>Parking Spaces</u>	6
Section 2.9	<u>Lease of Units</u>	7
ARTICLE III		
EASEMENTS		7
Section 3.0	<u>Utility Easement</u>	7
Section 3.1	<u>Easements for Encroachments</u>	7
Section 3.2	<u>Easements for Ingress and Egress</u>	7
Section 3.3	<u>Easements Through Common Elements</u>	8
Section 3.4	<u>Owners' Easements of Enjoyment</u>	8
Section 3.5	<u>Delegation of Use</u>	8
Section 3.6	<u>Limitation on Transfer</u>	8
ARTICLE IV		
USE AND OCCUPANCY RESTRICTIONS		9
Section 4.0	<u>Single Family Residential Use</u>	9
Section 4.1	<u>Antennas and Solar Collectors</u>	9
Section 4.2	<u>Utility Service</u>	10
Section 4.3	<u>Improvements and Alterations</u>	10
Section 4.4	<u>Trash Containers and Collection</u>	11
Section 4.5	<u>Machinery and Equipment</u>	11
Section 4.6	<u>Animals</u>	11
Section 4.7	<u>Temporary Occupancy</u>	11
Section 4.8	<u>Restriction on Further Subdivision and Time Shares</u>	12
Section 4.9	<u>Clothes Drying Facilities</u>	12
Section 4.10	<u>Mineral Exploration</u>	12
Section 4.11	<u>Diseases and Insects</u>	12
Section 4.12	<u>Vehicles</u>	12
Section 4.13	<u>Signs</u>	12
Section 4.14	<u>Lawful Use</u>	13
Section 4.15	<u>Nuisances and Offensive Activity</u>	13
Section 4.16	<u>Window Covering</u>	13
Section 4.17	<u>Extensions</u>	13
ARTICLE V		
MAINTENANCE AND REPAIR OF GENERAL ELEMENTS AND UNITS		13
Section 5.0	<u>Duties of the Association</u>	13
Section 5.1	<u>Duties of Owners</u>	14
Section 5.2	<u>Repair or Restoration Necessitated by Owner</u>	14
Section 5.3	<u>Association Right to Access</u>	14
ARTICLE VI		
THE ASSOCIATION		15

Section 6.0	<u>Rights, Powers and Duties of the Association.</u>	15
Section 6.1	<u>Directors and Officers.</u>	15
Section 6.2	<u>Association Rules.</u>	15
Section 6.3	<u>Architectural Committee.</u>	15

ARTICLE VII

MEMBERSHIP AND VOTING RIGHTS		15
Section 7.0	<u>Identity.</u>	15
Section 7.1	<u>Joint Ownership.</u>	16
Section 7.2	<u>Corporate or Partnership Ownership.</u>	16
Section 7.3	<u>Suspension of Voting Rights.</u>	16
Section 7.4	<u>Transfer of Membership.</u>	16

ARTICLE VIII

COVENANT FOR MAINTENANCE ASSESSMENTS		17
Section 8.0	<u>Creation of the Lien and Personal Obligation of Assessments.</u>	17
Section 8.1	<u>Purpose of Assessments.</u>	17
Section 8.2	<u>Basis for Assessment.</u>	17
Section 8.3	<u>Maximum Annual Assessment.</u>	18
Section 8.4	<u>Special Assessments.</u>	18
Section 8.5	<u>Supplemental Assessment.</u>	18
Section 8.6	<u>Rate of Assessment.</u>	18
Section 8.7	<u>Due Dates.</u>	19
Section 8.8	<u>Effect of Nonpayment of Assessments; Remedies of the Association.</u>	19
Section 8.9	<u>Subordination of Assessment Lien to Mortgages.</u>	20
Section 8.10	<u>No Exemption of Owner.</u>	20
Section 8.11	<u>Unallocated Tax Assessments.</u>	20
Section 8.12	<u>Certificate of Unpaid Assessments.</u>	20
Section 8.13	<u>Transfer Fee and Working Capital Fund.</u>	20
Section 8.14	<u>Maintenance of Reserve Fund.</u>	20

ARTICLE IX

CONDEMNATION		21
Section 9.0	<u>Consequence of Condemnation; Notice.</u>	21
Section 9.1	<u>Proceeds.</u>	21
Section 9.2	<u>Complete Taking.</u>	21
Section 9.3	<u>Partial Taking.</u>	22

ARTICLE X

INSURANCE		23
Section 10.0	<u>Scope of Coverage.</u>	23
Section 10.1	<u>Certificate of Insurance.</u>	25
Section 10.2	<u>Fidelity Bonds or Insurance.</u>	26

Section 10.3	<u>Payment of Premiums</u>	26
Section 10.4	<u>Insurance Obtained by Owner</u>	26
Section 10.5	<u>Payment of Insurance Proceeds</u>	26
Section 10.6	<u>Repair and Replacement of Damaged or Destroyed Property</u>	27
Section 10.7	<u>Insurance Trustee</u>	27
 <b>ARTICLE XI</b>		
	<b>NOTICE OF VIOLATION</b>	28
Section 11.0	<u>Recording of Notice</u>	28
Section 11.1	<u>Effect of Recording</u>	28
 <b>ARTICLE XII</b>		
	<b>RIGHTS OF FIRST MORTGAGEES</b>	28
Section 12.0	<u>Notification to First Mortgagees</u>	28
Section 12.1	<u>Limitations on Rights of Mortgage Holders</u>	29
Section 12.2	<u>Actions Requiring Approval of Eligible Mortgage Holders</u>	29
Section 12.3	<u>Approval Required for Amendment to Declaration, Articles or Bylaws</u>	30
Section 12.4	<u>Prohibition Against Right of First Refusal</u>	31
Section 12.5	<u>First Mortgagee Not Liable for Prior Assessments</u>	31
Section 12.6	<u>Subordination of Certain Liens to First Mortgage</u>	32
Section 12.7	<u>Right of Inspection of Records</u>	32
Section 12.8	<u>Limitation on Leasing of Units</u>	32
Section 12.9	<u>Prior Written Approval of First Mortgagees</u>	32
Section 12.10	<u>Liens prior to First Mortgage</u>	33
Section 12.11	<u>Condemnation or Insurance Proceeds</u>	33
Section 12.12	<u>Conflicting Provisions</u>	33
 <b>ARTICLE XIII</b>		
	<b>TERMINATION OF THE CONDOMINIUM</b>	33
Section 13.0	<u>Method of Termination</u>	33
 <b>ARTICLE XIV</b>		
	<b>GENERAL PROVISIONS</b>	34
Section 14.0	<u>Enforcement</u>	34
Section 14.1	<u>Severability</u>	34
Section 14.2	<u>Duration</u>	34
Section 14.3	<u>Amendment</u>	34
Section 14.4	<u>Remedies Cumulation</u>	34
Section 14.5	<u>Delivery of Notices and Documents</u>	34
Section 14.6	<u>Binding Effect</u>	35
Section 14.7	<u>Gender</u>	35
Section 14.8	<u>Topic Readings</u>	35

Section 14.9	<u>Survival of Liability</u>	35
Section 14.10	<u>Construction</u>	36
Section 14.11	<u>Joint and Several Liability</u>	36
Section 14.12	<u>Guests and Tenants</u>	36
Section 14.13	<u>Attorney's Fees</u>	36
Section 14.14	<u>Management Agreements</u>	37
Section 14.15	<u>Restrictions on Right to Mortgage</u>	37
Section 14.16	<u>Number of Days</u>	37

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM AND  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE LAKESHORE VILLAGE CONDOMINIUM**

WHEREAS, Lake Shore, Inc., a Pennsylvania Corporation ("Declarant") recorded a Declaration of Condominium and Declaration of Covenants, Conditions and Restrictions for the Lakeshore Village Condominium, at recording number 88-44718, official records of Mohave County, Arizona, and all amendments thereto (collectively, the "Declaration"), and governs the following property:

All Units in Building 1 through Building 14, inclusive, and all common elements, AMENDED LAKESHORE VILLAGE CONDOMINIUM, A CONDOMINIUM IMPOSED UPON AND A REPLAT OF LAKESHORE VILLAGE, according to the plat of record in the office of the County Recorder of Mohave County, Arizona, recorded June 28, 1990, at Fee Number 90-43188.

WHEREAS, the Association, by and through its members, wishes to amend and restate the Declaration in its entirety as set forth herein;

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

**ARTICLE I**  
**DEFINITIONS**

Section 1.0 "ARCHITECTURAL COMMITTEE" shall mean the committee established pursuant to Section 6.3 of this DECLARATION.

Section 1.1 "ARCHITECTURAL COMMITTEE RULES" shall mean the rules adopted by the ARCHITECTURAL COMMITTEE, as the same may be amended from time to time.

Section 1.2 "ARTICLES" shall mean and refer to Articles of Incorporation of The Lakeshore Village Condominium Association, Inc., an Arizona nonprofit corporation.

Section 1.3 "ASSOCIATION" shall mean and refer to The Lakeshore Village Condominium Association, Inc., an Arizona nonprofit corporation, its successors and assigns.

Section 1.4 "ASSOCIATION RULES" shall mean the rules and regulations adopted by the ASSOCIATION, as the same may be amended from time to time.

Section 1.5 "BOARD" shall mean the Board of Directors of the ASSOCIATION.

Section 1.6 "BUILDING" shall mean and refer to the structures designated as buildings on the PLAT.

Section 1.7 "BYLAWS" shall mean the Bylaws of the ASSOCIATION, as the same may be amended from time to time.

Section 1.8 "COMMON EXPENSES" shall mean expenditures made or liabilities incurred by or on behalf of the ASSOCIATION together with any allocations to reserves.

Section 1.9 "CONDOMINIUM" shall mean the real property located in Mohave County, Arizona, described on page one of this DECLARATION, thereby incorporated herein, constituting the real property covered by this DECLARATION as of the effective date hereof, together with all buildings and other IMPROVEMENTS located thereon and all easements, rights and appurtenances belonging thereto.

Section 1.10 "CONDOMINIUM DOCUMENTS" shall mean this DECLARATION and the ARTICLES, BYLAWS, ASSOCIATION RULES and ARCHITECTURAL COMMITTEE RULES.

Section 1.11 "DECLARANT" shall mean Lake Shore, Inc., a Pennsylvania corporation, its successors and any person or entity to whom it may expressly assign its rights under this DECLARATION.

Section 1.12 "DECLARATION" shall mean this entire document, as the same may be amended from time to time.

Section 1.13 "ELIGIBLE INSURER OR GUARANTOR" shall mean an insurer or governmental guarantor of a FIRST MORTGAGE who has requested notice of certain matters in accordance with Section 13.0 of this DECLARATION.

Section 1.14 "ELIGIBLE MORTGAGE HOLDER" shall mean a FIRST MORTGAGEE who has requested notice of certain matters from the ASSOCIATION in accordance with Section 12.0 of this DECLARATION.

Section 1.15 "FIRST MORTGAGE" shall mean and refer to any mortgage or deed of trust with first priority over any other mortgage or deed of trust.

Section 1.16 "FIRST MORTGAGEE" shall mean and refer to the holder of any FIRST MORTGAGE.

Section 1.17 "GENERAL COMMON ELEMENTS" shall mean the entire CONDOMINIUM except for the UNITS.

Section 1.18 "IMPROVEMENTS" shall mean all physical structures, including, but not limited to, buildings, private drives, parking areas, fences and walls.

Section 1.19 "LIMITED COMMON ELEMENTS" shall mean those portions of the GENERAL COMMON ELEMENTS that are reserved for the exclusive use of the OWNER of one UNIT in accordance with Section 2.6 of this DECLARATION.

Section 1.20 "MEMBER" shall mean any person, corporation, partnership, joint venture or other legal entity who is or becomes a member of the ASSOCIATION. The membership of the ASSOCIATION at all times shall consist exclusively of all the UNIT OWNERS or, following termination of the CONDOMINIUM, of all former UNIT OWNERS.

Section 1.21 "OWNER" shall mean the record owner, whether one or more persons or entities, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title), to the fee simple interest of a UNIT. OWNER shall not include (i) the purchaser of a UNIT under an executory contract for the sale of real property; (ii) persons or entities having an interest in a UNIT merely as security for the performance of an obligation; or (iii) a lessee or tenant of a UNIT. In the case of UNITS to which the fee simple title is vested in a trustee, the trustor shall be deemed to be the OWNER. In the case of UNITS to which the fee simple title is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust shall be deemed to be the OWNER.

Section 1.22 "PLAT" shall mean AMENDED LAKESHORE VILLAGE CONDOMINIUM, A CONDOMINIUM IMPOSED UPON AND A REPLAT OF LAKESHORE VILLAGE, according to the plat of record in the office of the County Recorder of Mohave County Arizona, recorded June 28, 1990, at Fee Number 90-43188. The boundaries described on the PLAT are for engineering and measurement purposes only. The CONDOMINIUM DOCUMENTS and Sections 1.28, 2.1 2.2, 2.3 and 2.6 hereof shall determine the definitions, ownership and maintenance obligations with respect to each BUILDING, UNIT and the related structures thereof.

Section 1.23 "PURCHASER" means any person who by means of a voluntary transfer acquires a legal or equitable interest in a UNIT, other than (i) a leasehold interest (including renewable options) of less than five years; or (ii) as security for an obligation.

Section 1.24 "SINGLE FAMILY" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons not all so related,

together with their domestic servants, who maintain a common household in a UNIT.

Section 1.25 "UNIT" shall mean a portion of the CONDOMINIUM which is intended for separate fee ownership and is not intended to be owned in common with the other OWNERS of UNITS in the CONDOMINIUM. The number of each UNIT is shown on the PLAT. The boundaries of each UNIT are the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and each UNIT includes both the portions of the BUILDING and the airspace encompassed within the boundaries of the UNIT. The boundaries of each UNIT shall also include the balcony, patio or fenced-in rear yard area. Each UNIT shall also include the range, dishwashers, and garbage disposal located in the UNITS and other built-in household appliances lying within said boundaries. The following shall not be considered part of a UNIT: bearing walls, columns, vertical supports, floors, foundations, patio walls and fences, except the fences separating each UNIT, pipes, ducts, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the UNIT. No structural part of a BUILDING and no part of a UNIT forming a part of any systems serving one or more other UNITS or the GENERAL COMMON ELEMENTS shall be deemed or construed to be a part of a UNIT.

Section 1.26 "UNIT ESTATE" shall mean a UNIT together with an undivided interest in the GENERAL COMMON ELEMENTS as set forth in Section 2.3 of this DECLARATION and the right to the exclusive use of the LIMITED COMMON ELEMENTS reserved for the exclusive use of the UNIT under Section 2.6 of this DECLARATION.

## ARTICLE II DESCRIPTION OF CONDOMINIUM

Section 2.0 Description of the Project. The CONDOMINIUM as of recordation of this DECLARATION shall be comprised of a total of fourteen (14) residential BUILDINGS which are numbered on the PLAT as BUILDINGS 1 through 14, inclusive. All of the UNITS within these fourteen (14) BUILDINGS are part of the CONDOMINIUM.

Section 2.1 Description of the Boundaries of Each Building. The boundaries of each BUILDING with reference to its location on the land is described on the PLAT. The boundaries of each BUILDING shall be the exterior of the outside walls of said BUILDING, except that where there are patios, balconies or fences which enclose a UNIT yard extending beyond the exterior of the outside walls, the boundaries of each BUILDING shall be the plane of the outer edge of the exterior walls surrounding said patios, balconies or fences or the plans of the boundary lines shown on the PLAT for said patios, balconies or fences which extend outward farthest from the exterior walls of said BUILDING. The upper and lower boundaries of the BUILDING shall be as shown on the PLAT.

**Section 2.2 Description of the Boundaries of Each Unit.** The boundaries of each UNIT and of each area of the CONDOMINIUM subject to individual ownership and exclusive control, shall be as defined in section 1.26 hereof.

**Section 2.3 Description of General Common Elements.** The GENERAL COMMON ELEMENTS shall include all of the CONDOMINIUM except for the UNITS. The GENERAL COMMON ELEMENTS shall include, but not be limited to, the land upon which the UNITS are located, the BUILDINGS, all exterior and bearing walls, columns, vertical supports, floors, patio walls and fences, except the fences separating each UNIT, ceilings and roofs, slabs, recreational facilities, pumps, landscaping, pavements, parking spaces that have not been assigned to a single UNIT as a LIMITED COMMON ELEMENT as set forth in Section 2.6, private drives, all waste, water pipes, ducts, conduits, wires, drainage lines, or other utility installations, reservoirs, water tanks and pumps servicing more than one UNIT, the foundations of the UNITS, the foundations of the BUILDINGS, and all other devices and premises designated for common use or employment by more than the OWNER of a single UNIT.

**Section 2.4 Description of Unit as Separate Parcel of Real Estate.** Each UNIT that has been created, together with its interest in the GENERAL COMMON ELEMENTS, constitutes for all purposes a separate parcel of real property and shall be separately taxed and assessed. There shall be no separate tax or assessment rendered against any GENERAL COMMON ELEMENTS.

**Section 2.5 Fractional Interest.** Each UNIT shall have a fractional undivided interest in the GENERAL COMMON ELEMENTS, and shall bear responsibility for its allotment of a portion of the COMMON EXPENSES based upon such fractional interest. The formula used to arrive at each individual UNIT's undivided fractional interest in the GENERAL COMMON ELEMENTS, shall be the fraction, the numerator of which shall be the total square footage for such individual UNIT (set forth on PLAT), and the denominator of which shall be the total square footage of all of the combined UNITS then existing in the CONDOMINIUM and subject to this DECLARATION.

**Section 2.6 Limited Common Elements.** Ownership of a UNIT shall entitle the OWNER thereof to the exclusive use of the following portions of the LIMITED COMMON ELEMENTS subject to such rules and regulations regarding the use and maintenance of such areas as may be adopted by the BOARD:

(a) The front patio and/or stairway adjoining the UNIT and designed for the exclusive use of the OWNER or occupant of the UNIT and to which there is access from the UNIT;

(b) All shutters, awnings, window boxes, doorsteps, stoops, porches, entry ways and all exterior doors and windows or other fixtures designed to serve a single UNIT, but which are located outside the boundaries of the UNIT.

(c) The designated parking space for such UNIT serving only that UNIT as shown on the PLAT and having the number corresponding to such UNIT's number.

If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a UNIT, any portion serving only that UNIT is a LIMITED COMMON ELEMENT allocated solely to that UNIT and any portion serving more than one UNIT or any portion of the GENERAL COMMON ELEMENTS is a part of the GENERAL COMMON ELEMENTS.

The right to exclusive use of the LIMITED COMMON ELEMENTS shall not be transferred assigned or conveyed separate or apart from the UNIT. In the event a UNIT is conveyed, the right to the exclusive use of the LIMITED COMMON ELEMENTS shall automatically be transferred to the new OWNER. Any lien, including, but not limited to, the lien of a mortgage or deed of trust, arising against a UNIT, shall also be a lien against the OWNER's right of exclusive use of the LIMITED COMMON ELEMENTS, and the foreclosure of a mortgage upon the UNIT, or the taking of a deed in lieu thereof, or a trustee's sale under a deed of trust or any other proceeding for foreclosing liens on a UNIT shall carry with it and transfer to the foreclosing party or the purchaser at any sheriff's sale or trustees sale the exclusive use of the LIMITED COMMON ELEMENTS. Partial or full satisfaction or release of any such lien upon a UNIT shall similarly be a satisfaction and release of the lien against the right to the exclusive use of the LIMITED COMMON ELEMENTS. No LIMITED COMMON ELEMENT may be reallocated among UNIT OWNERS, nor may a GENERAL COMMON ELEMENT be reallocated into a LIMITED COMMON ELEMENT.

Section 2.7 Prohibition of Severance or Partition of a Unit Estate. No OWNER shall be entitled to sever his interest in his UNIT from his undivided interest in the GENERAL COMMON ELEMENTS, his right to the use of LIMITED COMMON ELEMENTS and his right and easement to the use and enjoyment of the GENERAL COMMON ELEMENTS as established by this DECLARATION and the fee title to their respective UNITS shall not be separated, severed, partitioned or separately conveyed, encumbered or otherwise transferred, and each such undivided interest in the GENERAL COMMON ELEMENTS shall conclusively be deemed transferred or encumbered with the UNIT to which it is appurtenant even though the description in the instrument of conveyance or encumbrance may refer only to the UNIT. Nothing contained in this Section shall be construed to preclude an OWNER of a UNIT from creating a co-tenancy in the ownership of a UNIT with any other person or persons.

Section 2.8 Parking Spaces. UNIT OWNERS are to utilize their garages at all times for all vehicles, except that campers, boats, trailers and motor homes may be parked in the area designated for the parking of recreational vehicles. Parking spaces designated as a LIMITED COMMON ELEMENT and serving only a designated single UNIT shall be available for use of members of such OWNER's families, their guests and their tenants, Parking spaces which are part of the GENERAL COMMON ELEMENTS shall be available for use by members of all OWNERS' families, their guests and tenants.

Section 2.9 Lease of Units. Any UNIT OWNER may lease its UNIT, however, any lease or rental agreement must be in writing and must contain a covenant that the tenant be bound by and subject to the CONDOMINIUM DOCUMENTS and the ASSOCIATION. The obligations of the UNIT OWNER shall not be altered or changed by such lease and any UNIT OWNER shall be responsible for any violation of the CONDOMINIUM DOCUMENTS notwithstanding the lease of the UNIT. The UNIT OWNER shall continue to retain all voting rights which cannot be assigned or transferred to any tenant, and such UNIT OWNER shall continue to be primarily responsible for all ASSESSMENTS.

### ARTICLE III EASEMENTS

Section 3.0 Utility Easement. There is hereby created an easement upon across, over and under the GENERAL COMMON ELEMENTS for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, water, sewers, telephone, cable television, gas and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the GENERAL COMMON ELEMENTS. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utility service lines may be installed or relocated on the GENERAL COMMON ELEMENTS except as initially designed, approved, or constructed by the DECLARANT or as approved by the BOARD. This easement shall in no way affect any other recorded easements on the GENERAL COMMON ELEMENTS.

Section 3.1 Easements for Encroachments. Each UNIT and the GENERAL COMMON ELEMENTS shall be subject to an easement for encroachments, including but not limited to, encroachments of walls, ceilings, ledges, floors, and roofs created by construction, settling and overhangs as designed or constructed, or as created by discrepancies between the PLAT and the actual construction. If any portion of the GENERAL COMMON ELEMENTS shall actually encroach upon any UNIT, or if any UNIT shall actually encroach upon any portion of the GENERAL COMMON ELEMENTS, or if any UNIT shall actual encroach upon another UNIT, as the GENERAL COMMON ELEMENTS and the UNITS are shown on the PLAT, a valid easement for any of said encroachment and for the maintenance thereof, so long as they stand, shall and does exist. In the event any UNIT or structure is repaired, altered, or constructed, the OWNERS of the UNITS agree that similar encroachments shall be permitted and that a valid easement for said encroachment and for the maintenance thereof shall exist. The OWNER and any other parties acquiring any interest in the CONDOMINIUM shall acquiesce and agree to the existence of such easements by accepting a deed or otherwise becoming the OWNER of a UNIT.

Section 3.2 Easements for Ingress and Egress. There is hereby created easements for ingress and egress for pedestrian traffic over, through and across sidewalks, paths, walks and lanes that from time to time may exist upon the GENERAL COMMON ELEMENTS. There is

also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes; provided, however, that such easements shall not extend to any LIMITED COMMON ELEMENTS. Such easements shall run in favor of and be for the benefit of the OWNERS and occupants of the UNITS and their guests, families, tenants and invitees.

Section 3.3 Easements Through Common Elements. There is hereby created and reserved an easement through the GENERAL COMMON ELEMENTS as may be reasonably necessary for the purposes of discharging the ASSOCIATION's obligations hereunder or to make IMPROVEMENTS within the CONDOMINIUM.

Section 3.4 Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the GENERAL COMMON ELEMENTS, except for the LIMITED COMMON ELEMENTS, which right and easement shall be appurtenant to and shall pass with the title to every UNIT, subject to the following provisions:

(a) the right of the ASSOCIATION to adopt reasonable rules and regulations governing the use of the GENERAL COMMON ELEMENTS, except for the LIMITED COMMON ELEMENTS;

(b) the right of the ASSOCIATION to suspend the voting rights of an OWNER after giving them notice and an opportunity to be heard for any period during which any assessment against his UNIT remains unpaid; and for a period not to exceed sixty (60) days for any other infraction or violation of the CONDOMINIUM DOCUMENTS;

(c) the right of the ASSOCIATION to dedicate or transfer all or any part of the GENERAL COMMON ELEMENTS to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to be the MEMBERS. No such dedication or transfer shall be effective unless an instrument signed by eighty percent (80%) of the MEMBERS agreeing to such dedication or transfer has been recorded. The requirements of this Section shall not apply in the case of the utility easements covered by Section 3.0 of this DECLARATION.

Section 3.5 Delegation of Use. Any OWNER may delegate, in accordance with this DECLARATION, his right of enjoyment to the GENERAL COMMON ELEMENTS, except for the LIMITED COMMON ELEMENTS, to the members of his family, his tenants, his guests or invitees, provided such delegation is for a reasonable number of persons and at reasonable times.

Section 3.6 Limitation on Transfer. An OWNER's right and easement of enjoyment in and to the GENERAL COMMON ELEMENTS, except for the LIMITED COMMON ELEMENTS, shall not be conveyed, transferred, alienated or encumbered separate and apart from an OWNER's UNIT. Such right and easement of enjoyment in and to the GENERAL COMMON ELEMENTS, except for the LIMITED COMMON ELEMENTS, shall be deemed to

be conveyed, transferred, alienated or shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any OWNER's UNIT, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement or to the GENERAL COMMON ELEMENTS, except for the LIMITED COMMON ELEMENTS.

#### ARTICLE IV USE AND OCCUPANCY RESTRICTIONS

**Section 4.0    Single Family Residential Use.** All UNITS and LIMITED COMMON ELEMENTS shall be used, improved and devoted exclusively to residential use by a SINGLE FAMILY. No trade or business may be conducted within any UNIT, except that an OWNER or other resident of a UNIT may conduct a business activity within the UNIT so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the UNIT; (ii) the business activity conforms to all applicable zoning ordinances or requirements for the CONDOMINIUM; (iii) the business activity does not involve persons coming into the UNIT or the door-to-door solicitation of OWNERS or other residents in the CONDOMINIUM; and (iv) the business activity is consistent with the residential character of the CONDOMINIUM and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other residents in the CONDOMINIUM, as may be determined from time to time by the sole discretion of the BOARD. Furthermore, no advertising or directional signs may be placed upon any portion of the CONDOMINIUM regarding the business activity. The terms "business" and "trade" as used in this section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part time; (b) such activity is intended or does generate a profit; or (c) a license is required for such activity.

**Section 4.1    Antennas and Solar Collectors.** Unless governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, no antenna or other device for the transmission or reception of television, internet or radio signals or any other form of electromagnetic radiation or any associated equipment shall be erected, used or maintained outdoors on any UNIT or GENERAL COMMON ELEMENTS, whether attached to a building or structure or otherwise, so as to be visible from neighboring property or the street, unless approved in writing by the ARCHITECTURAL COMMITTEE. Any device governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, shall comply with the applicable antenna installation rules of the Association and shall be mounted, to the extent reasonably possible, so as to not be visible from neighboring property or the street. If the use or installation of an antenna by any OWNER causes damage to any BUILDING, the OWNER shall be responsible for the costs of repairing such damage, and any such costs, if

unpaid, shall be collectible in the same manner as assessments.

No solar collector panels may be installed on the exterior of any UNIT unless constructed as an integral part of the UNIT and designed so as to blend with the structure; in any event, no solar collector panels may be installed on any UNIT or structure without the prior written approval of the ARCHITECTURAL COMMITTEE, which will take into consideration, among other relevant factors, the extent to which the solar panels will be visible to or intrusive upon other UNITS or OWNERS.

Section 4.2 Utility Service. Except for lines, wires and devices existing on the CONDOMINIUM as of the date of this DECLARATION, and maintenance and replacement of same, no lines, wires 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 the CONDOMINIUM unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on BUILDINGS or other structures approved by the ARCHITECTURAL COMMITTEE. 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 ARCHITECTURAL COMMITTEE.

Section 4.3 Improvements and Alterations. Except for original construction work undertaken by DECLARANT, with respect to any UNIT or the GENERAL COMMON ELEMENTS, there shall be no structural alterations, structural additions, or structural improvements to any UNIT or the GENERAL COMMON ELEMENTS without the affirmative vote of at least seventy-five percent (75%) of those MEMBERS voting (in person or by absentee ballot) at a meeting called for such purpose. Unless otherwise specified under this Section, the cost of such alterations, additions or improvements to the GENERAL COMMON ELEMENTS shall be paid by means of a special assessment against the OWNERS in the proportion of their respective undivided interests in and to the GENERAL COMMON ELEMENTS. Any OWNER may make nonstructural additions, alterations and improvements to his UNIT without the prior written approval of the ARCHITECTURAL COMMITTEE, but such OWNER shall, to the extent required by Arizona law, be responsible for any damage to other UNITS and to the GENERAL COMMON ELEMENTS which results from any such alterations, additions or improvements. OWNERS are hereby prohibited from making any structural additions, alterations or improvements within a UNIT, unless prior to the commencement of each addition, alteration or improvements, the OWNER receives the prior written approval of the ARCHITECTURAL COMMITTEE and an architect or engineer, licensed in Arizona, certifies that such addition, alteration or improvement will not impair the structural integrity of the BUILDING within which such addition, alteration or improvement is to be made. The OWNER shall, to the extent required by Arizona law, be responsible for any damage to other UNITS and to the GENERAL COMMON ELEMENTS which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a UNIT, whether structural or not, which would be visible from the exterior of the BUILDING in

228

which the UNIT is located, shall be made without the prior written approval of the ARCHITECTURAL COMMITTEE, which approval shall only be granted if the ARCHITECTURAL COMMITTEE affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding IMPROVEMENTS.

Section 4.4 Trash Containers and Collection. No garbage or trash shall be placed or kept on the CONDOMINIUM except in the interior of a UNIT, or in covered containers of a type, size and style which are approved by the ARCHITECTURAL COMMITTEE, located in one of the four (4) designated trash collection points established by the ARCHITECTURAL COMMITTEE. The BOARD shall have the right to subscribe to a trash service for the use and benefit of the ASSOCIATION and all OWNERS, and to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection. No incinerators shall be kept or maintained on the UNIT.

Section 4.5 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the CONDOMINIUM except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of buildings, improvements or structures which are within the permitted uses of such property, and except that which the ASSOCIATION may require for the operation and maintenance of the GENERAL COMMON ELEMENTS.

Section 4.6 Animals. No animals, birds, fowl, poultry, or livestock, other than two (2) house pets, shall be maintained in or on the CONDOMINIUM and then only if they are kept, bred, or raised solely as domestic pets and not for commercial purposes. For purposes of this Section, any tank containing any number of tropical fish shall be considered as one house pet. Not pet or any other animal shall be allowed to make an unreasonable amount of noise, cause an odor, or to become a nuisance. All pets shall be kept on a leash not to exceed six (6) feet in length when outside a UNIT or any LIMITED COMMON ELEMENTS reserved to the use of such UNIT, and all pets shall be walked and directly supervised by the OWNER. No OWNER or a lessee or guest of an OWNERS shall permit any pet being kept in the UNIT or LIMITED COMMON ELEMENTS reserved to the use of such UNIT to relieve itself on any portion of the GENERAL COMMON ELEMENTS. It shall be the responsibility of said OWNER, lessee or guest to remove immediately any droppings from pets. No structure for the care, housing, confinement, or training of any animal or pet shall be maintained so as to be visible from the exterior of the building in which the UNIT is located. Upon the written request of any OWNER, the BOARD shall determine whether, for the purposes of this Section, a particular animal or bird is a generally recognized house pet, a nuisance, or whether the number of pets on any property is reasonable. Any decision rendered by the BOARD shall be final and binding and shall be enforceable as other restrictions contained herein.

Section 4.7 Temporary Occupancy. No trailer, basement of any incomplete IMPROVEMENT, building, tent, shack, garage or barn, and no temporary improvement of any kind shall be used at any time for a residence on any portion of the CONDOMINIUM, either

temporarily or permanently. Temporary buildings or structures used during the construction of BUILDINGS or structures approved by the ARCHITECTURAL COMMITTEE shall be permitted but must be removed promptly upon completion of the construction of the BUILDING or structure.

**Section 4.8 Restriction on Further Subdivision and Time Shares.** No UNIT shall be further subdivided or separated into smaller UNITS by any OWNER, and no portion less than all of any such UNIT shall be conveyed or transferred by any OWNER. This restriction shall not prevent the granting by an OWNER thereof of an easement over part or parts of a UNIT for use by another OWNER. Neither the ownership or occupancy of any UNIT shall be in time shares. No OWNER shall transfer, sell, assign or convey any time share in his UNIT and any such transaction shall be void. "Time Share" as used in this Section shall mean a right to occupy a UNIT or any one of several UNITS during five (5) or more separated time periods over a period of at least five (5) years, including renewable options, whether or not coupled with an estate or interest in a UNIT or a specified portion of a UNIT.

**Section 4.9 Clothes Drying Facilities.** Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on the CONDOMINIUM.

**Section 4.10 Mineral Exploration.** No portion of the CONDOMINIUM shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.

**Section 4.11 Diseases and Insects.** No OWNER shall permit or condition anything to exist upon the CONDOMINIUM which could induce, breed or harbor infectious plant diseases or noxious insects.

**Section 4.12 Vehicles.** All vehicles belonging to UNIT OWNERS are to be parked within the garages at all times and all garage doors must be kept closed at all times, except to permit vehicles ingress and egress. No mobile home, motor home, recreational vehicle, boat, trailer of any kind, truck or camper shall be kept on any portion of the CONDOMINIUM other than such UNIT OWNER's garage or the designated recreational vehicle parking area. No mobile home, motor home, home recreational vehicle, boat, boat trailer or any other kind of truck, camper or similar vehicle or structure shall be constructed or repaired, nor shall any motor vehicle be constructed, reconstructed or repaired, upon any portion of the CONDOMINIUM. No automobiles, trucks, motorcycles, motor bikes, scooters or other similar motor vehicle which is abandoned or inoperable shall be kept, placed or maintained on the CONDOMINIUM.

**Section 4.13 Signs.** No signs (including "for rent" signs) other than a name and address sign not exceeding 9 x 30 inches in size, shall be permitted on the exterior of any UNIT or BUILDING or any other portion of the CONDOMINIUM without the written approval of the ARCHITECTURAL COMMITTEE. "For Sale" signs that cannot be prohibited by law shall be allowed.

Section 4.14 Lawful Use. No immoral, improper, offensive, or unlawful use shall be made on any part of the CONDOMINIUM. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction over the CONDOMINIUM shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this DECLARATION.

Section 4.15 Nuisances and Offensive Activity. No nuisance shall be permitted to exist or operate upon the CONDOMINIUM and no activity shall be conducted upon the CONDOMINIUM which is offensive or detrimental to any portion of the CONDOMINIUM or any OWNER or occupants of the CONDOMINIUM. No exterior speakers, horns, whistles, bells or other sound devices except security or other emergency devices used exclusively for security or emergency purposes shall be located, used or placed on the CONDOMINIUM.

Section 4.16 Window Covering. No reflective materials, including, but not limited to, aluminum foil, reflective screens or glass, mirrors or similar type items which cause glare or a mirror effect, nor any paper whatsoever shall be installed or placed upon the outside or inside of any window of a UNIT. No enclosures, drapes, blinds, shades, screens, solar energy devices or other items affecting the exterior appearance of a UNIT or any LIMITED COMMON ELEMENTS reserved for the use of such UNIT shall be constructed or installed in any UNIT or LIMITED COMMON ELEMENTS without the prior written consent of the ARCHITECTURAL COMMITTEE. If the use or installation of an approved window covering by any OWNER causes damage to any BUILDING, the OWNER shall be responsible for the costs of repairing such damage, and any such costs, if unpaid, shall be collectible in the same manner as assessments.

Section 4.17 Extensions. No free standing storage units, sundecks, greenhouses, hot houses or other outbuildings may be constructed or installed on the CONDOMINIUM.

## ARTICLE V MAINTENANCE AND REPAIR OF GENERAL ELEMENTS AND UNITS

Section 5.0 Duties of the Association. The ASSOCIATION shall maintain, repair and make necessary improvements to all GENERAL COMMON ELEMENTS except for those portions of the GENERAL COMMON ELEMENTS which the OWNERS of the UNITS are obligated to maintain pursuant to Section 5.1 of this DECLARATION. The portion of the GENERAL COMMON ELEMENTS that the ASSOCIATION shall maintain includes, but is not limited to, all common facilities and improvements, landscaping, drainage facilities, roadways, streets, improvements, parking areas and walls. The ASSOCIATION's duties for maintenance and repair of the GENERAL COMMON ELEMENTS shall include the exterior portions of the UNITS and BUILDINGS, the land upon which the BUILDINGS are located, the space above the BUILDINGS, all bearing walls, columns, floors, roofs, slabs, foundations, storage building and lobbies, water and sewer pipes, ducts, shoots, conduits, wires and all other utility installations of

the BUILDINGS, except the outlets thereof when located within UNITS and all structural parts of the GENERAL COMMON ELEMENTS. All such repairs and maintenance shall be COMMON EXPENSES and shall be paid for the ASSOCIATION.

**Section 5.1 Duties of Owners.** Each OWNER of a UNIT shall maintain, repair, replace and restore, at his own expense, all portions of his UNIT, subject to the CONDOMINIUM DOCUMENTS. Each OWNER shall, at his own expense, maintain, repair, replace and restore, all doors, window glass, and any heating, cooling and air conditioning systems and equipment exclusively serving his UNIT, and all electrical and plumbing fixtures and appliances exclusively and all electrical and plumbing fixtures and appliances exclusively serving his UNIT, including, but not limited to, dishwashers, laundry equipment, ranges, ovens, water heaters and other built-in appliances. Each OWNER shall clean, maintain, repair, replace and restore all interior finished coverings. No OWNER shall remove, alter, injure or interfere in any way with any shrubs, trees, grass or plantings placed upon the CONDOMINIUM by DECLARANT or the ASSOCIATION without first having obtained the written consent of the ARCHITECTURAL COMMITTEE. In addition, each OWNER shall be responsible for the maintenance and repair of the LIMITED COMMON ELEMENTS (except for the structural parts of the LIMITED COMMON ELEMENTS) to which he has the right of exclusive use pursuant to Section 2.6 of this DECLARATION. Each OWNER shall take all necessary action to keep the LIMITED COMMON ELEMENTS free and clear from unsightly accumulations of weeds, trash and litter. Each OWNER shall have an easement over, across and through such portions of the GENERAL COMMON ELEMENTS as are necessary in order for the OWNER to perform his obligations under this Section with respect to the maintenance, repair, replacement and restoration of those portions of the GENERAL COMMON ELEMENTS and LIMITED COMMON ELEMENTS which he is obligated to maintain.

**Section 5.2 Repair or Restoration Necessitated by Owner.** Each OWNER shall be liable to the ASSOCIATION, to the extent provided for by the Arizona law, for any damage to the GENERAL COMMON ELEMENTS or the IMPROVEMENTS, landscaping or equipment thereon which results from the negligence of willful conduct of the OWNER. The cost to the ASSOCIATION of any such repair, maintenance or replacements required by such act of an OWNER shall be paid by said OWNER, upon demand, to the ASSOCIATION. The ASSOCIATION may enforce collection of any such amounts in the same manner and to the same extent as provided for in this DECLARATION for the collection of assessments.

**Section 5.3 Association Right to Access.** Each OWNER hereby grants to the ASSOCIATION a right of access to the GENERAL COMMON ELEMENTS for the purpose of enabling the ASSOCIATION, BOARD, ARCHITECTURAL COMMITTEE and any other committees established by the BOARD to exercise and discharge their respective powers, duties and responsibilities under the CONDOMINIUM DOCUMENTS. This right of access shall include, but not be limited to, the right to enter upon the GENERAL COMMON ELEMENTS for the purpose of determining whether the provisions of this DECLARATION are being complied with by the OWNERS, their guests, invitees, tenants and licensees. The

232

ASSOCIATION shall have the right to enter a UNIT in case of emergency.

## ARTICLE VI THE ASSOCIATION

Section 6.0 Rights, Powers and Duties of the Association. The ASSOCIATION shall be a non-profit Arizona corporation. The ASSOCIATION shall be made up of the UNIT OWNERS, and shall have such rights, powers and duties as are prescribed by law and as are set forth in the CONDOMINIUM DOCUMENTS together with such rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes of the ASSOCIATION as set forth in this DECLARATION.

Section 6.1 Directors and Officers. The affairs of the ASSOCIATION shall be conducted by the BOARD and such officers and committees as the BOARD may elect and appoint, in accordance with the ARTICLES and the BYLAWS.

Section 6.2 Association Rules. By a majority vote of the BOARD, the ASSOCIATION may, from time to time, and subject to the provisions of this DECLARATION, adopt, amend and repeal rules and regulations. The ASSOCIATION RULES may, among other things, restrict and govern the use of any area by any OWNER, by the family of such OWNER, or by any invitee, licensee or lessee of such OWNER; provided, however, that the ASSOCIATION RULES may not unreasonably discriminate among OWNERS and shall not be inconsistent with this DECLARATION, the ARTICLES or BYLAWS. A copy of the ASSOCIATION RULES as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each OWNER and may be recorded.

Section 6.3 Architectural Committee. The BOARD shall establish an ARCHITECTURAL COMMITTEE consisting of not less than three (3) members appointed by the BOARD to regulate the external design, appearance, use and maintenance of the CONDOMINIUM and to perform such other functions and duties as are imposed upon it by this DECLARATION, the BYLAWS or by the BOARD.

## ARTICLE VII MEMBERSHIP AND VOTING RIGHTS

Section 7.0 Identity. Each OWNER of a UNIT shall be a MEMBER of the ASSOCIATION and shall be entitled to one vote per UNIT owned. The membership of the ASSOCIATION at all times shall consist exclusively of all UNIT OWNERS or, following termination of the CONDOMINIUM, of all former UNIT OWNERS.

**Section 7.1 Joint Ownership.** When more than one person is the OWNER of a UNIT, all such persons shall be MEMBERS. The vote for such UNIT shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any UNIT. The vote for each such UNIT must be cast as a unit, and fractional votes shall not be allowed. In the event that joint OWNERS are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If only one of the joint OWNERS of a UNIT is present at a meeting of the ASSOCIATION, he is entitled to cast the vote allocated to that UNIT and it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other OWNERS of the same UNIT. In the event more than one ballot is cast for a particular UNIT, none of said votes shall be counted and said votes shall be deemed void.

**Section 7.2 Corporate or Partnership Ownership.** In the event a UNIT is owned by a corporation, partnership or association, the corporation, partnership or association shall be a MEMBER and shall designate in writing to the ASSOCIATION at the time of its acquisition of the UNIT, the name and title of the person who shall have the power to vote the membership of the corporation, partnership or association in the ASSOCIATION. The person so designated shall be the only person who shall be entitled to cast the vote for the UNIT owned by such corporation, partnership or association. If the corporation, partnership or association fails to designate the person who shall have the right to vote the membership of the corporation, partnership or association, then until such designation is made, such corporation, partnership or association shall lose its right to vote and it shall not be considered as a MEMBER for the purpose requiring the approval of a person entitled to cast the vote for the UNIT owned by such corporation, partnership or association.

**Section 7.3 Suspension of Voting Rights.** In the event any OWNER of a UNIT is in arrears in the payment of any assessment or other amounts due under the terms of the CONDOMINIUM DOCUMENTS for a period of fifteen (15) days or more, the ASSOCIATION shall impose charges for late payment of assessments, and after such fifteen (15) day notice, said OWNER's right to vote as a MEMBER of the ASSOCIATION shall be automatically suspended and shall remain suspended until all payments, including any late charges and applicable attorneys fees, are brought current, and for a period not to exceed sixty (60) days for any infraction of the CONDOMINIUM DOCUMENTS.

**Section 7.4 Transfer of Membership.** The ASSOCIATION membership of each OWNERS of a UNIT shall be appurtenant to such UNIT. 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 of such UNIT, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record, exercise of a power of sale under a deed of trust, or such other legal process as 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 and shall not be reflected upon the books and records of the ASSOCIATION. Any transfer of ownership to said UNIT shall operate to transfer said

membership to the new OWNER thereof.

**ARTICLE VIII**  
**COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 8.0 Creation of the Lien and Personal Obligation of Assessments. Each OWNER of a UNIT, by acceptance of a deed thereof or otherwise becoming the OWNER thereof, is deemed to covenant and agree to pay to the ASSOCIATION, (i) annual assessments, (ii) special assessments for capital improvements, (iii) supplemental assessments, and (iv) any other assessments set forth herein. Such assessments shall be levied and collected as provided for in this DECLARATION. The annual, special and supplemental assessments, together with interest, costs and reasonable attorneys fees, shall be a lien on the UNIT against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of each person who was the OWNER of such UNIT at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 8.1 Purpose of Assessments. The assessments levied by the ASSOCIATION shall be used exclusively to promote the recreation, health, safety, and welfare of the OWNERS, for the improvement and maintenance of the GENERAL COMMON ELEMENTS, and for all purposes set forth in the CONDOMINIUM DOCUMENTS, including, but not limited to, insurance premiums, real estate and personal property taxes, expenses for maintenance repairs and replacements of GENERAL COMMON ELEMENTS and reserves for depreciation and contingencies.

Section 8.2 Basis for Assessment. The assessments levied by the ASSOCIATION shall be based on an annual budget adopted by the BOARD. The BOARD shall have the right to adopt and amend the ASSOCIATION budget. Within thirty (30) days after adoption of any proposed budget, the BOARD shall provide a summary of the budget to all UNIT OWNERS. If the budget adopted or amended by the BOARD would result in an annual assessment for each UNIT in an amount greater than the maximum increase allowed pursuant to Section 8.3(a), such budget must be ratified by the OWNERS. If ratification is required, the BOARD shall set a date for a meeting of the UNIT OWNERS to consider ratification of the budget not fewer than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all the UNIT OWNERS rejects the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the UNIT OWNERS or adopted by the BOARD shall be continued until such time as the UNIT OWNERS ratify a subsequent budget proposed by the BOARD or adopt a budget not requiring ratification. In any event with or without ratification by the OWNERS, the BOARD shall be entitled to increase the annual assessment in an amount sufficient to compensate for an increase in taxes and/or insurance rates.

### Section 8.3 Maximum Annual Assessment.

(a) The BOARD may, without a vote of the membership of the ASSOCIATION, increase the annual assessment during each fiscal year of the ASSOCIATION by an amount of the higher of five percent (5%) or by an amount proportional to the amount of increase during the prior fiscal year in the Consumer Price Index (CPI-U) for All Urban Consumers (All Items), published by the United States Department of Labor, Bureau of Labor Statistics (1982-1984=100) for the Los Angeles, California metropolitan area, or in the event said index ceases to be published, by an successor index recommended as a substitute therefor by the United States Government.

(b) The annual assessment may be increased by an amount greater than the maximum increase allowed pursuant to Section 8.3(a) above, only if the budget upon which the annual assessment is based is ratified pursuant to Section 8.2 above.

(c) The BOARD shall fix the annual assessment for each UNIT in accordance with Section 8.7 of this DECLARATION but the annual assessment for UNIT for any fiscal year of the ASSOCIATION may not exceed the maximum annual assessment established by the BOARD pursuant to this Section.

Section 8.4 Special Assessments. In addition to annual assessments, the ASSOCIATION may levy, in any fiscal year of the ASSOCIATION, a special assessment applicable to that fiscal 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 of the GENERAL COMMON ELEMENTS, including fixtures and personal property related thereto, or for any other lawful ASSOCIATION purpose, provided that any such assessment shall have first been ratified in the manner as set forth in Section 8.2 above for ratification of the annual budget.

Section 8.5 Supplemental Assessment. In the event the BOARD shall determine that its funds budgeted or available in any fiscal year are, or will, become inadequate to meet all expenses of the ASSOCIATION for any reason, including nonpayment of assessments, it shall immediately determine the approximate amount of such inadequacies for such fiscal year and issue a supplemental budget and levy a supplemental assessment against the OWNERS of each UNIT for the amount required to pay all such expenses; provided, however, that any such supplemental assessment must first be ratified in the manner as set forth in Section 8.2 above for ratification of the annual budget.

Section 8.6 Rate of Assessment. The annual assessment for each UNIT for each fiscal year of the ASSOCIATION shall be the sum equal to the total of (i) the estimated COMMON EXPENSES of the ASSOCIATION for the fiscal year, as determined pursuant to Sections 8.2 and 8.3, (ii) the amount determined by the BOARD to be required during the fiscal year for the establishment and maintenance of a reserve fund pursuant to Section 8.14 of this DECLARATION, and (iii) the amount determined by the BOARD to be necessary for the

ASSOCIATION to perform all of its duties and obligations under the terms of the CONDOMINIUM DOCUMENTS for the fiscal year, multiplied by such UNIT's undivided interest in the GENERAL COMMON ELEMENTS pursuant to Section 2.5 of this DECLARATION. Each UNIT shall be assessed its proportionate share of any supplemental or special assessments levied pursuant to Section 8.4 or 8.5 of this DECLARATION. Each UNIT's proportionate share of any such assessments shall be the amount obtained by multiplying the total amount of such supplemental or special assessment by such UNIT's undivided interest in the GENERAL COMMON ELEMENTS pursuant to Section 2.5 of this DECLARATION.

**Section 8.7 Due Dates.** The BOARD shall fix the amount of the annual assessment against each UNIT in accordance with Section 8.2 above at least thirty (30) days in advance of each fiscal year. If the annual assessment is not fixed by the BOARD at least thirty (30) days in advance of the fiscal year, then the annual assessment for the prior fiscal year shall remain in effect until the thirtieth day after the BOARD fixes the annual assessment for the then current year. Written notice of the annual assessment shall be sent to every OWNER subject thereto prior to the commencement of the fiscal year; provided, however, that failure to give such notice shall not affect the validity or enforceability of the assessments as fixed by the BOARD. The BOARD may require that the annual, supplemental or special assessments be paid in installments. Unless otherwise specified by the BOARD, special and supplemental assessments shall be due thirty (30) days after they are levied by the ASSOCIATION and ratified by the OWNERS and notice of the assessment is given to the OWNERS.

**Section 8.8 Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment, or any installment of an assessment, which is not paid within thirty (30) days after the assessment first became due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum.

Any assessment, or any installment of an assessment, which is delinquent shall become a continuing lien on the UNIT against which such assessment was made. The ASSOCIATION's lien shall have priority over all liens and encumbrances on a UNIT except liens and encumbrances recorded before the recordation of the DECLARATION, a first mortgage or deed of trust on the UNIT recorded before the date on which the assessment sought to be enforced became delinquent, and liens from real estate taxes and other governmental assessments or charges against the UNIT.

The ASSOCIATION shall have the right, at its option, to enforce the collection of any delinquent assessments in any manner allowed by law including, but not limited to, (i) bringing an action at law against the OWNER personally obligated to pay the delinquent assessments and such action may be brought without waiving any lien securing any such delinquent assessments, or (ii) bring an action to foreclose its lien against the UNIT in the manner provided by law for the foreclosure of a realty mortgage. The ASSOCIATION shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all UNITS purchased at such sale.

**Section 8.9 Subordination of Assessment Lien to Mortgages.** The lien of the assessments provided in this DECLARATION shall be subordinate to liens and encumbrances on a UNIT except liens and encumbrances recorded before the recordation of the DECLARATION, a first mortgage or deed of trust on the UNIT recorded before the date on which the assessment sought to be enforced became delinquent, and liens from real estate taxes and other governmental assessments or charges against the UNIT. Sale or transfer of any UNIT shall not affect the assessment lien. However, the sale or transfer of any UNIT pursuant to judicial or nonjudicial foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such UNIT from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 8.10 No Exemption of Owner.** No OWNER of a UNIT may exempt himself from liability for payment of assessments and other charges levied pursuant to the CONDOMINIUM DOCUMENTS by waiver and non-use of any of the GENERAL COMMON ELEMENTS and facilities or by the abandonment of his UNIT.

**Section 8.11 Unallocated Tax Assessments.** In the event that any taxes are assessed against the personal property of the ASSOCIATION, said taxes shall be included in the assessments made under the provisions of this Article, and, if necessary, a supplemental or special assessment may be levied against the UNITS in an amount equal to said taxes, to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

**Section 8.12 Certificate of Unpaid Assessments.** The ASSOCIATION, upon written request, shall furnish to a lienholder, UNIT OWNER, or person designated by a UNIT OWNER, a recordable statement setting forth the amount of unpaid assessments against his UNIT. The statement shall be furnished within twenty (20) business days after receipt of the request and is binding upon the ASSOCIATION, the BOARD, and every UNIT OWNER.

**Section 8.13 Transfer Fee and Working Capital Fund.** A transfer fee shall be assessed against all new OWNERS. The transfer fee shall be in an amount equal to at least two (2) monthly installments of the current annual assessment for each UNIT. Each UNIT's share of the transfer fee shall be collected from the OWNER at the time the sale of the UNIT is closed. Any amounts paid as a transfer fee shall not be considered an advance payment of regular assessments, special assessments or supplemental assessments. The Board shall maintain a working capital fund, which shall be financed by the deposit of the transfer fees. The Board may also make periodic transfers of funds into the working capital fund from the general fund, as the Board deems necessary.

**Section 8.14 Maintenance of Reserve Fund.** Out of the annual assessments, the ASSOCIATION will establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the GENERAL COMMON ELEMENTS and those LIMITED COMMON ELEMENTS which the ASSOCIATION is obligated to maintain.

## ARTICLE IX CONDEMNATION

**Section 9.0    Consequence of Condemnation; Notice.** If at any time all or any part of the CONDOMINIUM shall be taken or condemned by any public authority, or sold or otherwise disposed of in lieu of or in avoidance thereof, the provisions of this Article shall apply. Upon any such act, each OWNER who has requested special notice, and each holder of a lien or encumbrance on the CONDOMINIUM or any part thereof, shall be provided with timely written notice of any proceeding or proposed acquisition or condemnation proceeding or in negotiations, settlements and agreements with the condemning authority for acquisition of the GENERAL COMMON ELEMENTS or any part thereof.

**Section 9.1    Proceeds.** All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "CONDEMNATION AWARD", shall be payable to the BOARD in trust for the OWNERS and all holders of liens and encumbrances on the CONDOMINIUM or any part thereof, as their interests may appear.

**Section 9.2    Complete Taking.** In the event that the entire CONDOMINIUM is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the CONDOMINIUM created pursuant hereto shall terminate. The CONDEMNATION AWARD shall be apportioned among the OWNERS in accordance to their respective interests of the UNIT OWNERS which is the proportion to the fair market value of each OWNER's UNIT as compared to the fair market value of all of the UNITS at the time of the condemnation. The fair market value of each UNIT at the time of the condemnation shall be determined by the judgment or order fails to specify the fair market value of each of the UNITS, then the fair market value of each UNIT shall be determined by an appraisal employed by the BOARD. If the BOARD employs an appraiser for such purpose, then the fee or compensation to be paid to the appraiser shall be paid by the BOARD out of the CONDEMNATION AWARD. On the basis of the foregoing principle, the BOARD shall as soon as practicable determine the share of the CONDEMNATION AWARD to which each OWNER is entitled. Out of the respective share of each OWNER, the BOARD shall pay to the extent such funds are sufficient for such purpose, all encumbrances and liens on the interest of such OWNER in the ORDER of their priority, and the balance, if any, of the OWNER's share shall then be distributed to the OWNER.

Following termination of the CONDOMINIUM, the proceeds of any sale of real estate, together with the assets of the ASSOCIATION, are held by the ASSOCIATION as trustee for UNIT OWNERS and holders of liens on the UNITS as their interests may appear. Following termination, creditors of the ASSOCIATION holding liens on the UNITS which were recorded before termination any enforce those liens in the same manner as any lienholder.

The respective interests of UNIT OWNERS are as follows:

(a) Except as provided in (b) below, the respective interests of UNIT OWNERS are the fair market values of their UNITS, LIMITED COMMON ELEMENTS and GENERAL COMMON ELEMENT interests immediately before the termination, as determined by an independent appraiser selected by the ASSOCIATION. The determination of this independent appraiser shall be distributed to the UNIT OWNERS and becomes final unless disapproved within thirty (30) days after distribution by UNIT OWNERS of UNITS to which fifty percent (50%) of the votes in the ASSOCIATION are allocated. The proportion of any UNIT OWNER's interest to that of all UNIT OWNERS is determined by dividing the fair market value of that UNIT OWNER's UNIT and GENERAL COMMON ELEMENTS interest by the total market values of all the UNITS and GENERAL COMMON ELEMENTS.

(b) If any UNIT or any LIMITED COMMON ELEMENT is destroyed to the extent that an appraisal of the fair market value of the UNIT or ELEMENT before destruction cannot be made, the interest of all UNIT OWNERS is their respective interest in the GENERAL COMMON ELEMENTS immediately before the termination.

**Section 9.3 Partial Taking.** In the event that less than the entire CONDOMINIUM is taken, condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the CONDOMINIUM created hereunder shall not terminate and the following provisions shall apply:

(a) If one or more of the UNITS is acquired by eminent domain, or if a part of the UNIT is acquired by eminent domain, leaving the UNIT OWNER with a remnant which may not practically or lawfully be used for any purpose permitted by the DECLARATION, the CONDEMNATION AWARD must compensate the UNIT OWNER for his UNITS and its interest in the GENERAL COMMON ELEMENTS, regardless of whether any GENERAL COMMON ELEMENTS are acquired. On acquisition, unless the decree otherwise provides, that UNIT's allocated interests are automatically reallocated to the remaining UNITS in proportion to the respective allocated interest of those UNITS before the taking so that the fractional interest of each remaining UNIT in GENERAL COMMON ELEMENTS and share of any assessments shall be a fraction, the numerator of which shall be the total square footage of each respective remaining UNIT and the denominator of which shall be the total square footage of all combined UNITS remaining in the CONDOMINIUM after the taking, and the ASSOCIATION shall promptly prepare, execute and record an amendment to the DECLARATION reflecting the reallocation. Each OWNER of a UNIT remaining after the taking shall be a MEMBER of the ASSOCIATION and shall be entitled to one (1) vote per UNIT owned. Any remnant of a UNIT remaining after part of a UNIT is taken under this section becomes a GENERAL COMMON ELEMENT.

(b) Except as provided in subsection (a) of this Section, if part of a UNIT is acquired by eminent domain the CONDEMNATION AWARD must compensate the UNIT OWNER for the reduction in value of the UNIT and its interest in the GENERAL COMMON ELEMENTS, regardless of whether any GENERAL COMMON ELEMENTS are acquired. On acquisition, unless the decree otherwise provides, all the following apply:

(i) Each UNIT's fractional interest in the GENERAL COMMON ELEMENTS, and share of any assessments made by the ASSOCIATION, shall be allocated in the same manner and according to the same formulas as before the acquisition. Each OWNER of a UNIT remaining after the acquisition shall be a MEMBER of the ASSOCIATION and shall be entitled to one vote per UNIT owned.

(c) If part of the GENERAL COMMON ELEMENTS are acquired by eminent domain, the portion of the CONDEMNATION AWARD attributable to the GENERAL COMMON ELEMENTS taken shall be paid to the ASSOCIATION for the benefit of the UNIT OWNERS. Unless the DECLARATION provides otherwise, any portion of the award attributable to the acquisition of a LIMITED COMMON ELEMENT shall be equally divided among the OWNERS of the UNITS to which that LIMITED COMMON ELEMENT was allocated at the time of the acquisition.

(d) The court decree shall be recorded in every county in which any portion of the CONDOMINIUM is located.

## ARTICLE X INSURANCE

Section 10.0 Scope of Coverage. The ASSOCIATION shall maintain, to the extent reasonably available, the following insurance coverage:

(a) A multi-peril type policy (excluding flood insurance coverage) covering the GENERAL COMMON ELEMENTS and the structure of the BUILDINGS within the CONDOMINIUM, excluding the UNITS, as a minimum, fire and extended coverage, and all other coverage in kinds and amounts customarily acquired or required for projects similar in construction, location and use, in an amount not less than 100% of the insurable value (based upon replacement cost as determined at least once every two years by a qualified insurance appraiser selected by the BOARD).

(i) The ASSOCIATION does not intend to carry insurance coverage for the following:

- (1) Floor coverings of any kind;
- (2) Wall coverings of any kind;
- (3) Cabinetry, built-in appliances, or electrical/plumbing fixtures, including all HVAC equipment located inside or outside of the UNIT;
- (4) Furniture and any other personal property of the OWNER within the UNIT.

- (ii) It is the intent of the ASSOCIATION to provide, at a minimum, "bare walls" coverage. OWNER shall be responsible for covering all portions of the UNIT and LIMITED COMMON ELEMENTS allocated to the UNIT not covered by the ASSOCIATION. The ASSOCIATION will provide the level of coverage that is in the best interest of the ASSOCIATION and the OWNERS, as determined by the BOARD. If, in the future, the BOARD determines that modifying the insurance coverage would be in the best interest of the ASSOCIATION and the OWNERS, the BOARD may modify the insurance coverage upon providing the OWNERS with thirty (30) days written notice of the change so that the OWNERS may obtain any additional coverage necessary.
- (iii) If the negligence or actions of an OWNER (or the OWNER's residents, tenants, guests or service providers) cause damage to any portion of the CONDOMINIUM covered by the ASSOCIATION'S insurance, the OWNER shall be responsible for the full amount of the ASSOCIATION'S insurance deductible. In the event that the costs of repair, replacement, or restoration for such damage is less than the ASSOCIATION'S insurance deductible, the OWNER shall be responsible for full payment of the costs thereof. In the event that damage is caused by the negligence or actions of an OWNER (or the OWNER's residents, tenants, guests or service providers) to another UNIT or any other portion of the CONDOMINIUM that is not covered by the ASSOCIATION'S insurance policy, the OWNER shall be responsible for all costs or repair, replacement or restoration. If an OWNER is required to pay any amounts to the ASSOCIATION as set forth herein to perform any repair or reconstruction work, said amount shall be paid within sixty (60) days of its due date. Any unpaid deductible shall be collectible in the same manner as a delinquent assessment.

(b) Comprehensive general liability insurance, in an amount determined by the BOARD, but not less than \$1,000,000.00. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the GENERAL COMMON ELEMENTS, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the OWNERS as a group to an OWNER.

(c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona.

(d) Such other insurance as the ASSOCIATION shall determine from time to time to be appropriate to protect the ASSOCIATION or the OWNERS.

(e) The insurance policies purchased by the ASSOCIATION shall, to the extent reasonably available, contain the following provisions:

(1) Each OWNER shall be an insured under the policy with respect to liability arising out of his ownership of an undivided interest in the GENERAL COMMON ELEMENTS or his membership in the ASSOCIATION.

(2) There shall be no subrogation with respect to the ASSOCIATION, its agents, servants, and employees, with respect to OWNERS and members of their household.

(3) No act or omission by any OWNER, unless acting within the scope of his authority on behalf of the ASSOCIATION, shall void the policy or be a condition to recovery on the policy.

(4) The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by OWNERS or their mortgages or beneficiaries under deeds of trust.

(5) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an OWNER because of the negligent acts of the ASSOCIATION or other OWNERS.

(6) Statement of the name of the insured as "The Lakeshore Village Condominium Association, Inc." for use and benefit of the individual OWNERS (designated by name if require by the insured).

(7) For policies of hazard insurance a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy, as well as the ASSOCIATION, at least thirty (30) days in advance of the effective date of any reduction or cancellation of the policy.

(8) The ASSOCIATION shall be a named insured under the policies required by this ARTICLE X.

(f) "Agreed Account" and "Inflation Guard" endorsements, and Construction Code and Machinery Coverage endorsements if necessary.

Section 10.1 Certificate of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the ASSOCIATION and, upon request, to any OWNER, mortgagee or beneficiary under a deed of trust. Any

265

insurance obtained pursuant to this Article may not be cancelled or not renewed until thirty (30) days after notice of the proposed cancellation or refusal to renew has been mailed to the ASSOCIATION, each OWNER and each FIRST MORTGAGEE, or to whom a certificate or memorandum of insurance has been issued at their respective last addresses.

**Section 10.2 Fidelity Bonds or Insurance.** The ASSOCIATION shall maintain blanket fidelity bonds or insurance for all officers, directors, trustees and employees of the ASSOCIATION and all other persons handling or responsible for funds of, or administered by the ASSOCIATION. Where the ASSOCIATION has delegated some or all of the responsibility for the handling of funds to a management agent, the ASSOCIATION shall provide fidelity bonds or insurance for the officers, employees and agents of the management company handling or responsible for funds of, or administered on behalf of the ASSOCIATION. The total amount of fidelity bond coverage or insurance shall be based upon the best business judgment of the BOARD, and shall not be less than the amount equal to one hundred percent (100%) of the estimated annual operating expenses of the CONDOMINIUM, including the amount in the reserve fund.

Fidelity bonds or insurance obtained by the ASSOCIATION must also meet the following requirements:

- (a) The fidelity bonds or insurance shall name the ASSOCIATION as an obligee or additional insured;
- (b) The fidelity bonds or insurance policies shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions;
- (c) The bonds or insurance policies shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the ASSOCIATION and each FIRST MORTGAGEE.

**Section 10.3 Payment of Premiums.** Premiums for all insurance obtained by the ASSOCIATION pursuant to this ARTICLE shall be COMMON EXPENSES and shall be paid for by the ASSOCIATION.

**Section 10.4 Insurance Obtained by Owner.** The issuance of insurance policies to the ASSOCIATION pursuant to this ARTICLE shall not prevent an OWNER from obtaining insurance for his own benefit and at his own expense covering his UNIT, his personal property and providing personal liability coverage.

**Section 10.5 Payment of Insurance Proceeds.** Any loss covered by property insurance obtained by the ASSOCIATION in accordance with this ARTICLE shall be adjusted by the

ASSOCIATION and the insurance proceeds shall be payable to the ASSOCIATION and not to any mortgagee or beneficiary under a deed of trust. The ASSOCIATION shall hold any insurance proceeds in trust for OWNERS and lien holders as their interests may appear. Subject to the provisions of Section 10.6 of this ARTICLE, the proceeds shall be disbursed for the repair or restoration of the damage to GENERAL COMMON ELEMENTS and UNITS, and OWNERS and lien holders shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the GENERAL COMMON ELEMENTS and UNITS have been completely repaired or restored, or the CONDOMINIUM terminated.

**Section 10.6 Repair and Replacement of Damaged or Destroyed Property.** Any portion of the CONDOMINIUM damaged or destroyed that is insured by the ASSOCIATION shall be repaired or replaced promptly by the ASSOCIATION unless, (i) the CONDOMINIUM is terminated, (ii) repair or replacement would be illegal under a state or local health or safety statute or ordinance, or (iii) eighty percent (80%) of the OWNERS, including every OWNER of a UNIT which will not be rebuilt, vote not to rebuild. The cost of repair or replacement which is in excess of insurance proceeds and reserves shall be a COMMON EXPENSE. If the entire CONDOMINIUM is not repaired or replaced, (i) insurance proceeds attributable to the damaged GENERAL COMMON ELEMENTS shall be used to restore the damaged area to a condition compatible with the remainder of the CONDOMINIUM, (ii) insurance proceeds attributable to UNITS and allocated LIMITED COMMON ELEMENTS which are not to be rebuilt shall be distributed to the OWNERS of those UNITS and the OWNERS to which those allocated LIMITED COMMON ELEMENTS were allocated, (iii) the remainder of the proceeds shall be distributed to all OWNERS or lien holders as their interests may appear in proportion to the GENERAL COMMON ELEMENT interest of all the UNITS. If the OWNERS vote not to rebuild a UNIT, that UNIT's entire GENERAL COMMON ELEMENT interest and proportionate share of assessments and votes in the ASSOCIATION shall be automatically allocated as if the UNIT had been condemned, and the ASSOCIATION shall promptly prepare, execute and record an amendment to the DECLARATION reflecting the allocations.

**Section 10.7 Insurance Trustee.** Notwithstanding any other provisions of this ARTICLE, there may be named as an insured on behalf of the ASSOCIATION, the ASSOCIATION's authorized representative, including any trustee with whom such ASSOCIATION may enter into any Insurance Trust Agreement or any successor to such trustee ("Insurance Trustee"), who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance to the ASSOCIATION. Each OWNER, by accepting a deed to, or otherwise becoming the OWNER of a UNIT, appoints the ASSOCIATION or any Insurance Trustee or substitute Insurance Trustee designated by the ASSOCIATION, as attorney-in-fact for the purpose of purchasing such insurance, including, but without limitation: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases or liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The ASSOCIATION or any Insurance Trustee shall receive, hold or otherwise properly dispose of any proceeds of insurance in trust for OWNERS and their FIRST MORTGAGEES, as their interests may appear.

## ARTICLE XI NOTICE OF VIOLATION

Section 11.0 Recording of Notice. The ASSOCIATION shall have the right to record a written notice of violation by any OWNER of any restriction or provision of the CONDOMINIUM DOCUMENTS. The notice shall be executed and acknowledged by an officer of the ASSOCIATION and shall contain substantially the following information:

- (a) The name of the OWNER;
- (b) The legal description or street address of the UNIT against which the notice is being recorded;
- (c) A brief description of the nature of the violation;
- (d) A statement that the notice is being recorded by the ASSOCIATION pursuant to this DECLARATION; and
- (e) A statement of the specific steps which must be taken by the OWNER to cure the violation.

Section 11.1 Effect of Recording. Recordation of a Notice of Violation shall serve as notice to the OWNER and to any subsequent purchaser of the UNIT that there is a violation of the provisions of the CONDOMINIUM DOCUMENTS. If, after the recordation of such notice, it is determined by the ASSOCIATION that the violation referred to in the notice does not exist or that the actual violation referred to in the notice has been cured, the ASSOCIATION shall record a notice of compliance which shall state the legal description or street address of the UNIT against which the notice of violation was recorded, the recording data identifying the docket and page where the notice of violation was recorded, and shall state that the violation referred to in the notice of violation has been cured, or if such be the case, that it did not exist.

## ARTICLE XII RIGHTS OF FIRST MORTGAGEES

Section 12.0 Notification to First Mortgagees. Upon receipt by the ASSOCIATION of a written request from a FIRST MORTGAGEE or insurer or governmental guarantor of a FIRST MORTGAGE informing the ASSOCIATION of its correct name and mailing address and number or address of the UNIT to which the request relates, the ASSOCIATION shall provide such ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER OR GUARANTOR with timely written notice of the following:

(a) Any condemnation loss or any casualty loss which affects a material portion of the CONDOMINIUM or any UNIT on which there is a FIRST MORTGAGE held, insured or guaranteed by such ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER OR GUARANTOR;

(b) Any delinquency in the payment of assessments or charges owed by an OWNER of a UNIT subject to a FIRST MORTGAGE held, insured or guaranteed by such ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER or GUARANTOR or any other default in the performance by the OWNER of any obligation under the CONDOMINIUM DOCUMENTS, which delinquency or default remains uncured for the period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the ASSOCIATION;

(d) Any proposed action which requires the consent of a specified percentage of ELIGIBLE MORTGAGE HOLDERS as set-forth in Sections 13.2 or 13.3 of this DECLARATION.

Section 12.1 Limitations on Rights of Mortgage Holders. Notwithstanding any of the rights granted MORTGAGE HOLDERS, beneficiaries of deeds of trust or other secured lenders under this ARTICLE XIII, no requirement for approval from such secured lender shall operate to either:

(a) Deny or delegate control over the general administrative affairs of the ASSOCIATION by the UNIT OWNERS or the BOARD; or

(b) Prevent the ASSOCIATION or the BOARD from commencing, intervening in or settling any litigation or proceeding, or receiving and distributing any insurance proceeds as provided herein.

Section 12.2 Actions Requiring Approval of Eligible Mortgage Holders. To the extent permitted by applicable law, ELIGIBLE MORTGAGE HOLDERS shall have the following rights:

(a) Any restoration or repair of the CONDOMINIUM, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the DECLARATION and the original plans and specifications, unless other action is approved by ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

(b) Any election to terminate the legal status of the CONDOMINIUM after substantial destruction or a substantial taking in condemnation of the CONDOMINIUM shall not be effective unless approved by ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

(c) Unless the formula for reallocation of interest in the GENERAL COMMON ELEMENTS after a partial condemnation or partial destruction of the CONDOMINIUM is fixed in advance by the DECLARATION of BYLAWS or by applicable law, no reallocation of interests in the GENERAL COMMON ELEMENTS resulting from a partial condemnation or partial destruction of the CONDOMINIUM may be effected without the prior approval of ELIGIBLE MORTGAGE HOLDERS with FIRST MORTGAGES on all remaining UNITS, whether existing in whole or in part, the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

(d) When professional management of the ASSOCIATION has been previously required by any ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER or GUARANTOR, whether such entity became an ELIGIBLE MORTGAGE HOLDER or ELIGIBLE INSURER or GUARANTOR at that time or later, any decision to establish self management by the ASSOCIATION shall require the prior consent of OWNERS having at least sixty-seven percent (67%) of the votes in the ASSOCIATION and the approval of ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS.

Section 12.3 Approval Required for Amendment to Declaration, Articles or Bylaws.  
The following provisions shall apply to all amendments to the DECLARATION, ARTICLES and BYLAWS, except for those amendments made as a result of destruction, damage or condemnation pursuant to Section 12.1 of this DECLARATION:

(a) The approval of ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least eighty percent (80%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS, shall be required to terminate the legal status of the CONDOMINIUM as a CONDOMINIUM.

(b) The approval of ELIGIBLE MORTGAGE HOLDERS holding FIRST MORTGAGES on UNITS the OWNERS of which have at least fifty-one percent (51%) of the votes in the ASSOCIATION allocated to OWNERS of all UNITS subject to FIRST MORTGAGES held by ELIGIBLE MORTGAGE HOLDERS, shall be required to add or amend any material provisions of the DECLARATION, ARTICLES or BYLAWS which establish,

provide for, govern or regulate any of the following:

- (1) Voting;
- (2) Assessments, assessment liens or subordination of such liens;
- (3) Reserves for maintenance, repair and replacement of GENERAL COMMON ELEMENTS (or UNITS, if applicable);
- (4) Insurance or fidelity bonds;
- (5) Rights to the use of the GENERAL COMMON ELEMENTS;
- (6) Responsibility for maintenance and repair of the several portions of the CONDOMINIUM;
- (7) The interests in the GENERAL COMMON ELEMENTS or LIMITED COMMON ELEMENTS;
- (8) Leasing of UNITS; and
- (9) Any provisions which are for the express benefit of FIRST MORTGAGES, ELIGIBLE MORTGAGE HOLDERS or ELIGIBLE INSURERS OR GUARANTORS.

(c) Any addition or amendment to the DECLARATION, ARTICLES or BYLAWS shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. Any FIRST MORTGAGEE who receives a written request to approve additions or amendments to the DECLARATION, ARTICLES or BYLAWS who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Section 12.4 Prohibition Against Right of First Refusal. The right of an OWNER to sell, transfer, or otherwise convey his UNIT shall not be subject to any right of first refusal or similar restriction.

Section 12.5 First Mortgagee Not Liable for Prior Assessments. Any FIRST MORTGAGEE or any other party acquiring title or coming into possession of a UNIT through foreclosure of the FIRST MORTGAGE, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid assessments and charges against the UNIT which became payable prior to such sale or transfer. Any such delinquent assessments which are extinguished pursuant to this Section may be reallocated and assessed to

all UNITS as a COMMON EXPENSE. Any assessments and charges against the UNIT which accrue prior to such sale or transfer shall remain the obligation of the defaulting OWNER of the UNIT.

Section 12.6 Subordination of Certain Liens to First Mortgage. Any lien which the ASSOCIATION may have on a UNIT for the payment of assessments or other charges becoming payable on or after the date of the recording of the FIRST MORTGAGE on the UNIT shall be subordinate to the FIRST MORTGAGE.

Section 12.7 Right of Inspection of Records. Any OWNER, FIRST MORTGAGEE or ELIGIBLE INSURER OR GUARANTOR will, upon written request, be entitled to (i) inspect the current copies of the CONDOMINIUM DOCUMENTS and the books, records and financial statements of the ASSOCIATION during normal business hours, (ii) receive written notice of all meetings of the MEMBERS of the ASSOCIATION and be permitted to designate a representative to attend all such meetings, and (iii) receive within one hundred eighty (180) days following the end of any fiscal year of the ASSOCIATION, an audit, compilation or review of the financial statements of the ASSOCIATION for the immediately preceding fiscal year of the ASSOCIATION. The BOARD shall have the discretion to determine whether to obtain an audit, compilation or review for each fiscal year. When an OWNER or other interested individual requests that an audit be obtained for a fiscal year for which the BOARD, in its discretion, determined to obtain a compilation or review, the OWNER or other interested individual shall pay upon request, the costs of such requested audit.

Section 12.8 Limitation on Leasing of Units. No OWNER may lease less than his entire UNIT. All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the CONDOMINIUM DOCUMENTS and any failure by any lessee to comply with the terms of such documents shall be a default under the lease. The BOARD may adopt, amend and repeal rules governing leases. All leases shall be subject to any such rules adopted by the BOARD.

Section 12.9 Prior Written Approval of First Mortgagees. Except as provided by statute or in case of condemnation or substantial loss to the UNITS and/or the GENERAL COMMON ELEMENTS, unless at least sixty-seven percent (67%) of all FIRST MORTGAGEES (based upon one vote for each FIRST MORTGAGE owned) or OWNERS of the UNITS have given their prior written approval, the ASSOCIATION shall not be entitled to:

(a) By act or omission, seek to abandon or terminate this DECLARATION or the CONDOMINIUM;

(b) Change the pro rata interest or obligations of any individual 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 UNIT in the GENERAL COMMON ELEMENTS;

(c) Partition or subdivide any UNIT;

(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the GENERAL COMMON ELEMENTS. The granting of easements for public utilities or for other public purposes consistent with the intended use of the GENERAL COMMON ELEMENTS shall not be deferred or transferred within the meaning of this paragraph;; or

(e) Use hazard insurance proceeds for losses to any UNITS or the GENERAL COMMON ELEMENTS for any purpose other than the repair, replacement or reconstruction of such UNITS or the GENERAL COMMON ELEMENTS.

Section 12.10 Liens prior to First Mortgage. All taxes, assessments, and charges which may become liens prior to the FIRST MORTGAGE under local law shall relate only to the individual UNIT and not to the CONDOMINIUM as a whole.

Section 12.11 Condemnation or Insurance Proceeds. No OWNER of a UNIT, or any other party, shall have priority over any rights of any FIRST MORTGAGEE of the UNIT pursuant to its mortgage in the case of a distribution to such UNIT OWNER of insurance proceeds of condemnation awards for losses to or a taxing of UNITS and/or GENERAL COMMON ELEMENTS.

Section 12.12 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this ARTICLE and any other provisions of the CONDOMINIUM DOCUMENTS, the provisions of this ARTICLE shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this ARTICLE or between the provisions of this ARTICLE and any other provisions of the CONDOMINIUM DOCUMENTS with respect to the number or percentage of OWNERS, FIRST MORTGAGEES, ELIGIBLE MORTGAGE HOLDERS or ELIGIBLE INSURERS OR GUARANTORS that must consent to (i) an amendment of the DECLARATION, ARTICLES or BYLAWS, (ii) a termination of the CONDOMINIUM, or (iii) certain actions of the ASSOCIATION as specified in Sections 13.3, 13.2 and 13.8 of this DECLARATION, the provision requiring the consent of the greatest number or percentage of OWNERS, FIRST MORTGAGEES, ELIGIBLE MORTGAGE HOLDERS or ELIGIBLE INSURERS OR GUARANTORS shall prevail.

### ARTICLE XIII TERMINATION OF THE CONDOMINIUM

Section 13.0 Method of Termination. Notwithstanding any contrary provision of the CONDOMINIUM DOCUMENTS, the CONDOMINIUM created by the recording of this DECLARATION may only be terminated with the approval of eighty percent (80%) of the OWNERS of the UNITS. Any such termination of the CONDOMINIUM shall be evidenced by

251

a "Termination Agreement" which shall be executed and with the County Recorder of Mohave County, Arizona. The "Termination Agreement" shall specify a date after which the Agreement will be void unless it is recorded before that date. If at the time of such termination there are any encumbrances or liens against any of the UNITS, the "Termination Agreement" will be effective only when the creditors holding such encumbrances or liens execute and acknowledge such "Termination Agreement" will be effective only when the creditors holding such encumbrances or liens execute and acknowledge such "Termination Agreement" or their encumbrances or liens are satisfied other than by foreclosure against the UNITS or expire by operation by law. No termination of the CONDOMINIUM shall be a bar to any subsequent commitment of the CONDOMINIUM to a CONDOMINIUM. Any termination of the CONDOMINIUM must also comply with the requirements of Article XIII of this DECLARATION.

#### ARTICLE XIV GENERAL PROVISIONS

Section 14.0 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 the CONDOMINIUM DOCUMENTS. Failure by the ASSOCIATION or by any OWNER to enforce any covenant or restriction contained in the CONDOMINIUM DOCUMENTS shall in no event be deemed a waiver of the right to do so thereafter.

Section 14.1 Severability. Invalidity 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 14.2 Duration. The covenants and restrictions of this DECLARATION shall run with and bind the CONDOMINIUM, for a 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.

Section 14.3 Amendment. In addition to the provisions of Section 12.3 and 13.0, this DECLARATION may be amended at any time by an instrument signed by OWNERS representing not less than seventy five percent (75%) of the UNITS. Any amendment must be recorded. Any amendment must also comply with the requirements of Article XII of this DECLARATION.

Section 14.4 Remedies Cumulation. Each remedy provided herein is cumulative and not exclusive.

Section 14.5 Delivery of Notices and Documents. Any written notice or other documents relating to or required by this DECLARATION may be delivered either personally or

252

my mail. If by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the ASSOCIATION or the ARCHITECTURAL COMMITTEE, to the address of the ASSOCIATION set forth in the ARTICLES; if to an OWNER, to the address of his UNIT within the CONDOMINIUM owned, in whole or in part, by his or to any other address last furnished by an OWNER to the ASSOCIATION; provided, however, that any such address may be changed at any time by the party concerned by recording a written notice of change of address and delivering a copy thereof to the ASSOCIATION. Each OWNER of a UNIT shall file the correct mailing address of such OWNER with the ASSOCIATION, and shall promptly notify the ASSOCIATION in writing of any subsequent change of address. Each OWNER of a UNIT shall also file with the ASSOCIATION the best phone number at which to reach such OWNER in the event of an emergency, and shall promptly notify the ASSOCIATION in writing of any subsequent change of number.

**Section 14.6 Binding Effect.** By acceptance of a deed or by acquiring an ownership interest in any portion of the CONDOMINIUM, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, imposed by the CONDOMINIUM DOCUMENTS and any amendments thereof. In addition, each such person by so doing thereby acknowledges that the CONDOMINIUM DOCUMENTS set forth a general scheme for the improvements and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in the CONDOMINIUM DOCUMENTS shall run with the land and be binding on all subsequent and future OWNERS, grantees, purchasers, assigns and transferees thereof. Furthermore, each such person fully understands and acknowledges that the CONDOMINIUM DOCUMENTS shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future OWNERS. The UNITS and the membership in the ASSOCIATION and the other rights created by the CONDOMINIUM DOCUMENTS shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective UNIT even though the description in the instrument of conveyance or encumbrance may refer only to the UNIT.

**Section 14.7 Gender.** The singular, wherever used in this DECLARATION, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions of this DECLARATION apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

**Section 14.8 Topic Readings.** The marginal or topical headings of the Sections contained in this DECLARATION are for convenience only and do not define, limit or construe the contents of the Sections or of this DECLARATION.

**Section 14.9 Survival of Liability.** The termination of membership in the ASSOCIATION shall not relieve or release any such former OWNER or MEMBER from any

liability or obligation incurred under, or in any way connected with, the ASSOCIATION during the period of such ownership or membership, or impair any rights or remedies which the ASSOCIATION may have against such former OWNER or MEMBER arising out of, or in any way connected with such ownership or membership and the covenants and obligations incident thereto.

Section 14.10 Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this DECLARATION and the ARTICLES BYLAWS, ASSOCIATION RULES, or ARCHITECTURAL COMMITTEE RULES, the provisions of this DECLARATION shall prevail.

Section 14.11 Joint and Several Liability. In the case of joint ownership of a UNIT, the liabilities and obligations of each of the joint OWNERS set forth in or imposed by the CONDOMINIUM DOCUMENTS, shall be joint and several.

Section 14.12 Guests and Tenants. Each OWNER shall, to the extent required by Arizona law, be responsible for compliance by his agents, tenants, guests, invitees, licensees and their respective servants, agents and employees with the provisions of the CONDOMINIUM DOCUMENTS. Any OWNER's failure to insure compliance by such persons shall be grounds for the same action available to the ASSOCIATION or any other OWNER by reason of such OWNER's own non-compliance.

Section 14.13 Attorney's Fees. In the event the BOARD employs an attorney or attorneys for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this DECLARATION, or for any other purpose in connection with the breach of this DECLARATION, ARTICLES, BYLAWS, or any ASSOCIATION RULES, whether or not a lawsuit is filed, each OWNER agrees to pay reasonable attorneys' fees and costs thereby incurred, and all other expenses incurred by the ASSOCIATION, in addition to any other amounts due from the OWNER or any other relief or remedy obtained against said OWNER. Said amounts shall be considered an assessment against the OWNER'S UNIT, subject to an assessment lien, and collectible in the same manner as assessments. In the event of a default in payment of any such assessment when due, in which case the assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the BOARD may enforce each such obligation in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures (and the exercise by the ASSOCIATION of one or more of the remedies set forth below shall not prevent the ASSOCIATION from exercising any other remedy available):

(a) The BOARD may bring a suit at law against each owner to enforce each such assessment obligation. Each OWNER agrees that any judgment rendered in any such action shall include all attorney's fees and costs incurred by the ASSOCIATION, as set forth above, plus all court costs and necessary expenses and accounting fees incurred by the ASSOCIATION, plus interest on the amount of said assessment at the maximum legal rate allowed by law from

the date the assessment becomes delinquent until paid in full.

(b) The BOARD may foreclose the assessment lien against the UNIT in accordance with the then prevailing Arizona law relating to the foreclosure of realty mortgages (including the right to recover any deficiency), and the UNIT may be redeemed after foreclosure sale as provided by law. Each OWNER agrees that any judgment rendered in any such action shall include all attorney's fees and costs incurred by the ASSOCIATION, as set forth above, plus all court costs, title search fees, interest, and all other costs and expenses to the extent permitted by law, and such costs and expenses shall be added to the lien.

Section 14.14 Management Agreements. Any agreement for professional management of the ASSOCIATION or the CONDOMINIUM shall not exceed one year. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on thirty (30) days or less written notice.

Section 14.15 Restrictions on Right to Mortgage. There shall be no restriction on the right of the UNIT OWNERS to mortgage his or her unit, nor shall there be any limit on the UNIT OWNERS financing options nor requirement that he or she use any particular lending institution or particular type of lender.

Section 14.16 Number of Days. In computing the number of days for purposes of any provision of the CONDOMINIUM DOCUMENTS, all days shall be counted including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

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The President of the Association hereby certifies that the provisions contained within this Amended and Restated Declaration have been approved by the required percentage of the owners.

DATED this 13<sup>th</sup> day of MARCH, 2009.

The Lakeshore Village Condominium Association,  
Inc.

By: *A. J. Nyffeler*  
Its: President



STATE OF ARIZONA       )  
                                      ) ss.  
County of Mohave        )

On this 13<sup>th</sup> day of March, 2009, before me the undersigned Notary Public, personally appeared *A. J. Nyffeler*, who acknowledged to me that (s)he is the President of the Association and that (s)he executed the foregoing agreement on behalf of the Association for the purposes expressed therein.

*Martha L. Watson*  
Notary Public

My Commission expires:  
*Jan. 23, 2012*