

WHEN RECORDED, RETURN TO:

Stephen Aron Benson, Esq.
SACKS TIERNEY P.A.
4250 N. Drinkwater Boulevard, 4th Floor
Scottsdale, Arizona 85251-3647

**CORRECTION TO
CONDOMINIUM DECLARATION FOR
THE FIELDS OF SURPRISE OFFICE CONDOMINIUMS**

* This document is being re-recorded for the sole purpose of correcting the legal description set forth as Exhibit A in the Condominium Declaration for the Fields of Surprise Office Condominiums recorded January 19, 2005, in Instrument No. 2005-0073140, Official Records of Maricopa County Recorder, Maricopa County, Arizona. The only change is that Building 12D has been added to the legal description.

IN WITNESS WHEREOF, the undersigned the Declarant has executed this Condominium Declaration as of the day and year first above written.

A & H HOLDINGS, LLC, an Arizona
limited liability company

By: _____

Name: _____

Its: Member/Manager

Henry J. Rozek

V and G INVESTMENTS INC., an
Illinois corporation

By: _____

Gregory A. Gienko

Its: President

Exhibit A**Description of Condominium Project,
aka The Fields of Surprise Office Condominiums**

Buildings 1A, 1B, 2, 3, 4A, 4B, 5, 6, 7, 8, 9, 10, 11A, 11B, 12A, 12B, 12C, 12D, 13 and 14, and TRACT "A", according to the plat of record, FIELDS OF SURPRISE OFFICE CONDOMINIUMS, recorded in Book 723 of Plats, page 44, in the official records of the Maricopa County Recorder's Office, Arizona.

Which was formerly known as:

Parcel 22 of Unofficial Document **CONCOURTARDS - AMENDED**, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, recorded in Book 588 of Maps, Page 27, and thereafter Affidavit of Correction recorded July 24, 2002 as 2002-0746750 of official records.

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 17th day of February, 2005, by Healy J. Cozer Member/Manager of A& H Holdings, LLC, an Arizona limited liability company, on behalf of the company.



MICHELLE R. BARRETT
Notary Public - Arizona
Maricopa County
Expires 01/30/08

Michelle R. Barrett
Notary Public

My Commission Expires:

Unofficial Document

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 17th day of February, 2005, by Gregory A. Gienko, President of V and G Investments, Inc. an Illinois corporation, on behalf of the corporation.



MICHELLE R. BARRETT
Notary Public - Arizona
Maricopa County
Expires 01/30/08

Michelle R. Barrett
Notary Public

My Commission Expires:

RATIFICATION:

The undersigned, as beneficiary under that certain deed of trust recorded August 19, 2004, in Document 2004-0968904 and acting pursuant to the terms thereof and the authority granted therein, does hereby does hereby ratify, consent to, confirm and approve the Correction to the Condominium Declaration.

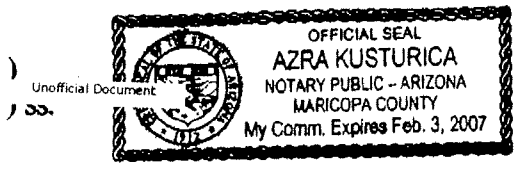
Joseph M. Blyle

By: Joseph M. Blyle

Its: Vice President

STATE OF ARIZONA

County of Maricopa



The foregoing instrument was acknowledged before me this 17th day of Feb, 2005, by Joe Blyle, the Vice President of 1st National Bank of AZ, on behalf of the bank.

Azra Kusturica
Notary Public

My Commission Expires:

02/03/07

WHEN RECORDED, RETURN TO:

Stephen Aron Benson, Esq.
SACKS TIERNEY P.A.
4250 N. Drinkwater Boulevard, 4th Floor
Scottsdale, Arizona 85251-3647



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
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CONDOMINIUM DECLARATION

FOR

THE FIELDS OF SURPRISE OFFICE CONDOMINIUMS

WHEN RECORDED, RETURN TO:

Stephen Aron Benson, Esq.
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CONDOMINIUM DECLARATION

FOR

THE FIELDS OF SURPRISE OFFICE CONDOMINIUMS

CONDOMINIUM DECLARATION
FOR
THE FIELDS OF SURPRISE OFFICE CONDOMINIUMS

This Condominium Declaration for The Fields of Surprise Office Condominiums, a condominium, is made this 18th day of January, 2005, by **A & H HOLDINGS, LLC**, an Arizona limited liability company, and **V and G INVESTMENTS, INC.**, an Illinois corporation.

ARTICLE 1
DEFINITIONS

1.1 General Definitions. Capitalized terms not otherwise defined in this Declaration shall have the meanings specified for such terms in the Arizona Condominium Act, A.R.S. § 33-1201, et seq. as amended from time to time.

1.2 Defined Terms. The following capitalized terms shall have the general meanings described in the Act and for purposes of this Declaration shall have the specific meanings set forth below:

(a) "Assessments" means the Common Expense Assessments and Special Assessments levied and assessed against each Unit pursuant to Article 7 of this Declaration.

(b) "Assessment Lien" means the lien granted to the Association by the Condominium Act to secure the payment of Assessments, monetary penalties and other charges owed to the Association.

(c) "Association" means The Fields of Surprise Office Condominiums Association, an incorporated association, its successors and assigns.

(d) "Board of Directors" means the Board of Directors of the Association.

(e) "Building" means the structures containing one or more Units that have been or will hereafter be constructed on the land included in the Condominium, as shown on the Plat.

- (f) "Bylaws" means the Bylaws of the Association, as amended, modified, supplemented, restated or replaced from time to time.
- (g) "Common Elements" means all portions of the Condominium other than the Units.
- (h) "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.
- (i) "Common Expense Assessment" means the assessment levied against the Units pursuant to Section 7.2 of this Declaration.
- (j) "Common Expense Liability" means the liability for Common Expenses allocated to each Unit by this Declaration.
- (k) "Condominium" means the real property located in Maricopa County, Arizona, described in Exhibit A attached to this Declaration, together with all Buildings and other Improvements located thereon.
- (l) "Condominium Act" means the Arizona Condominium Act, A.R.S. §33-120 1, et seq., as amended from time to time.
- (m) "Condominium Documents" means this Declaration, the Articles of Incorporation, the Bylaws, and the Rules.
- (n) "Declarant" means A & H HOLDINGS, LLC, an Arizona limited liability company, its successors and assigns, as to an undivided fifty percent (50%) interest; and V & G INVESTMENTS, INC., an Illinois corporation, its successors and assigns, as to an undivided fifty percent (50%) interest, and any person or entity to whom they may transfer any Special Declarant Right.
- (o) "Declarant Party" or "Declarant Parties" means collectively Declarant, Declarant's manager and members, Declarant's builders, general contractors or brokers, or their agents or employees.
- (p) "Declaration" means this Condominium Declaration, as amended from time to time.
- (q) "Development Rights" means any right or combination of rights reserved by or granted to the Declarant in this Declaration to do any of the following:
- (i) Add real estate to the Condominium;
 - (ii) Create easements, Units, Common Elements or Limited Common Elements within the Condominium;
 - (iii) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units;

- (iv) Withdraw real estate from the Condominium;
- (v) Make the Condominium part of a larger condominium or planned community;
- (vi) Amend the Declaration during the Period of Declarant Control to comply with the Condominium Act or any other applicable law or to correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner;
- (vii) Amend the Declaration during the Period of Declarant Control to comply with the rules or guidelines, in effect from time to time, of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments.
- (r) "First Mortgage" means any mortgage or deed of trust on a Unit with first priority over any other mortgage or deed of trust on the same Unit.
- (s) "Improvement" means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Condominium, including, but not limited to, buildings, private drives, paving, fences, walls, hedges, plants, trees and shrubs of every type and kind.
- (t) "Limited Common Elements" means a portion of the Common Elements specifically designated in this Declaration as a Limited Common Element and allocated by this Declaration or by operation of the Condominium Act for the exclusive use of one or more but fewer than all of the Units.
- (u) "Maintenance Standard" means the standard of maintenance of Improvements established from time to time by the Board of Directors.
- (v) "Member" means any Person who is or becomes a member of the Association.
- (w) "Mortgagee" means the holder of any First Mortgage;
- (x) "Period of Declarant Control" means the time period commencing on the date this Declaration is recorded with the County Recorder of Maricopa County, Arizona, and ending on the earlier of (i) ninety (90) days after the conveyance of all of the Units which may be created to Unit Owners other than the Declarant, or (ii) four (4) years after all Declarants have ceased to offer Units for sale in the ordinary course of business, or (iii) the date that the Declarant notifies the Board of Directors in writing that it is electing to terminate the Period of Declarant Control.
- (y) "Person" means a natural person, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

(z) "Plat" means the condominium plat for THE FIELDS OF SURPRISE OFFICE CONDOMINIUMS, a condominium, which plat, as amended, has been recorded on January 14, 2005 in Book 723 of Plats, page 44, as Instrument No. 2005-057327, Official Records of Maricopa County, Arizona, and any amendments, supplements or corrections thereto.

(aa) "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes a Unit Owner.

(bb) "Rules" means the rules and regulations adopted by the Association, as amended from time to time.

(cc) "Special Declarant Rights" means any right or combination of rights reserved by or granted to the Declarant in this Declaration or by the Condominium Act to do any of the following:

(i) Construct Improvements provided for in this Declaration or shown on the Plat;

(ii) Exercise any Development Right;

(iii) Maintain sales offices, management offices, models, and signs advertising the Condominium;

(iv) Use easements through the Common Elements for the purpose of making Improvements within the Condominium;

(v) Appoint or remove any officer of the Association or any member of the Board of Directors during the Period of Declarant Control.

(dd) "Unit" means a portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Section 2.5 of this Declaration. The areas identified as "Possible Future Development" may be the site of future Improvements constructed by the Developer. Such Improvements may contain additional Units and Common Elements.

(ee) "Unit Owner" means the record owner, whether one or more Persons, 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. Unit Owner shall not include Persons having an interest in a Unit merely as security for the performance of an obligation, or a lessee or tenant of a Unit. Unit Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract subject to A.R.S. § 33-741, et seq. Unit Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of Units, the fee simple title to which is vested in a trustee pursuant to A.R.S. § 33-801, et seq., the trustor shall be deemed to be the Unit Owner. In the case of Units,

the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the Unit shall be deemed to be the Unit Owner.

ARTICLE 2
SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATION
OF PERCENTAGE INTERESTS, VOTES AND
COMMON EXPENSE LIABILITIES

2.1 Submission of Property. The Declarant hereby submits the real property described in Exhibit A attached to this Declaration (the "Real Property"), together with all Buildings and Improvements situated thereon and all easements, rights and appurtenances thereto, to the provisions of the Condominium Act for the purpose of creating a condominium in accordance with the provisions of the Condominium Act and hereby declares that the real property described in Exhibit A attached to this Declaration, together with all Buildings and Improvements situated thereon, and all easements, rights and appurtenances thereto, shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration.

2.2 Name of Condominium. The name of the Condominium created by this Declaration is THE FIELDS OF SURPRISE OFFICE CONDOMINIUMS.

2.3 Name of Association. The name of the Association is The Fields of Surprise Office Condominiums Association.

2.4 Identifying Numbers of Units. The identifying numbers of the Units, as shown on the Plat, are: (i) Buildings 1A and 1B (which are contained within the same Building); Building 2; Building 3; Buildings 4A and 4B (which are contained within the same Building); Building 5; Building 6; Building 7; Building 8; Building 9; Building 10; Buildings 11A and 11B (which are contained within the same Building); Buildings 12A, 12B, 12C and 12D (which are contained within the same Building); and Building 13; where all of the foregoing shall be designated for office use as provided in Article 4 hereof and are collectively referred to herein as the "Office Buildings"; and (ii) Building 14, which the Declarant contemplates may be developed with a building used as a restaurant (the "Undeveloped PAD").

2.5 Unit Boundaries.

(a) The boundaries of each Unit are the interior unfinished surfaces of the perimeter walls, floor, ceiling, exterior doors and windows of the Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the walls, floor and ceiling are part of the Unit, and all other portions of the walls, floor and ceiling are part of the Common Elements.

(b) Any air conditioning or heating unit, chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture, whether located within or outside

of the boundaries of a Unit, which serves only one Unit, is a Limited Common Element allocated exclusively to the Unit served, and any portion serving more than one Unit or any portion of the Common Elements is a part of the Common Elements.

(c) Subject to the provisions of Subsection 2.5(b) of this Declaration, all spaces, interior partitions and other fixtures and Improvements within the boundaries of a Unit are part of the Unit.

(d) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, entryways or patios, 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, are Limited Common Elements allocated exclusively to the Unit served.

(e) In the event of any inconsistency or conflict between the provisions of this Section and the Plat, this Section shall control.

(f) The physical boundaries of a Unit shall be considered to be the proper boundaries regardless of the settling, rising or lateral movement of the Buildings and regardless of any variances between the boundaries shown on the Plat and the actual physical boundaries.

(g) The Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant, including without limitation to combine adjoining Units without the consent of any Unit Owner, and to reallocate each such Unit's Common Element interest, votes in the Association and Common Expense Liabilities subject to and in accordance with A.R.S. § 33-1222.

2.6 Allocation of Common Element Interest and Common Expense Liabilities. The undivided interests in the Common Elements and in the Common Expenses of the Association shall be allocated among the Units in the proportion that the floor area of each Unit bears to the aggregate floor areas of all Units.

2.7 Allocation of Votes in the Association. Each Unit shall have a number of votes in the Association equal to the floor area of that Unit; measured in square feet.

2.8 Allocation of Limited Common Elements.

(a) The following portions of the Common Elements are Limited Common Elements and are allocated to the exclusive use of one Unit as follows:

(i) The Board of Directors shall allocate to each Unit Owner one (1) covered parking space for each one thousand (1,000) square feet of floor area of such Unit Owner's Unit (the "Covered Parking Spaces"), and the Association shall grant to each Unit Owner an exclusive license to use the Covered Parking Spaces, subject to the restrictions contained in this Declaration and any rules and regulations that may be promulgated by the Association from time to time.

(ii) The patio or balcony and enclosed storage closet adjoining the Unit, if any, and to which there is access from the Unit, as shown on the Plat, is allocated exclusively to the Unit served.

(iii) Any air conditioning or heating unit, chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture, whether located within or outside of the boundaries of a Unit, which serve only one Unit is a Limited Common Element allocated exclusively to the Unit served.

(iv) If any air conditioning or heating unit, chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the boundaries of a Unit, the portion serving only one Unit is a Limited Common Element allocated exclusively to the Unit served, the use of which is limited to that Unit, and any portion serving more than one Unit or a portion of the Common Elements is a part of the Common Elements.

(v) Any shutters, awnings, window boxes, doorsteps, stoops, porches, entryways and exterior doors and windows or other fixtures designed to serve a single Unit, but which are located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit served and their use is limited to that Unit.

(vi) Any storage bin or locker assigned to a Unit by the Association is a Limited Common Element allocated exclusively to that Unit.

(b) A Limited Common Element may be reallocated by an amendment to this Declaration made in accordance with the provisions of Section 33-1218(B) of the Condominium Act.

(c) The Board of Directors shall have the right, without a vote of the Members, to allocate as a Limited Common Element any portion of the Common Elements not previously allocated as a Limited Common Element. Any such allocation by the Board of Directors shall be made by an amendment to this Declaration and an amendment to the Plat if required by the Condominium Act.

2.9 Sprinkler Riser Closets. Each Building within the Condominium shall have a closet designated for sprinkler system risers (the "Sprinkler Riser Closet"). The Sprinkler Riser Closet in Office Buildings are a Common Element, which shall be maintained by the Association and the costs associated therewith will be allocated to the Unit Owners as Common Expense Assessments pursuant to Section 7.2 below. As to the Undeveloped PAD: (i) the Unit Owner shall construct a sprinkler riser room, which will be a part of that Building and will not be a Common Element; (ii) the Unit Owner will be responsible for maintenance of the sprinkler risers; and, (iii) the Common Expense Assessment levied against the Unit Owner will not include costs incurred by the Association in maintaining the Sprinkler Riser Closets in the Office Buildings.

2.10 Rights Reserved to Declarant. Declarant reserves the right at any time and from time to time, subject to the provisions of the Condominium Act, to exercise any or all of the Development Rights and the Special Declarant Rights.

ARTICLE 3 EASEMENTS

3.1 Utility Easement. There is hereby created an easement upon, across, over and under the Common Elements for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television, electricity and storm drains. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Elements, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Elements except as initially designed, approved and constructed by the Declarant or as approved by the Board of Directors. This easement shall in no way affect any other recorded easements on the Common Elements.

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 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, located on the Common Elements and intended for such purposes except 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 Unit Owners and occupants of the Units and their tenants, licensees and invitees.

3.3 Access Easement. There is hereby created an easement granting to the Association or a company hired by the Association to the full extent necessary therefor to enter any Office Building to repair, replace and maintain the equipment located in the Sprinkler Riser Closets. In no event shall the easements or the use of the easements unreasonably interfere with the operation of the business in any affected Unit.

3.4 Unit Owners' Easements of Enjoyment.

(a) Every Unit Owner shall have a right and easement of enjoyment in and to the Common Elements, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

(i) The right of the Association to adopt reasonable rules and regulations governing the use of the Common Elements;

(ii) The right of the Association to convey the Common Elements or subject the Common Elements to a mortgage, deed of trust or other

security interest, in the manner and subject to the limitations set forth in the Condominium Act;

(iii) All rights and easements set forth in this Declaration including, but not limited to, the rights and easements granted to the Declarant by Sections 3.5 and 3.6 of this Declaration;

(iv) The right of the Association to suspend the right of a Unit Owner and any occupant of its Unit to use the Common Elements (other than the right of a Unit Owner and any occupant to use the streets which are part of the Common Elements for ingress and egress to the Unit Owner's Unit) for any period during which the Unit Owner is in violation of any provision of the Condominium Documents.

(b) If a Unit is leased or rented, the lessee and the occupants of the lessee's Unit shall have the right to use the Common Elements during the term of the lease, and the Unit Owner shall have no right to use the Common Elements (other than the right of a Unit Owner to use the streets which are part of the Common Elements for ingress and egress to the Unit Owner's Unit) until the termination or expiration of the lease. If only a portion of a Unit is leased, this paragraph shall apply only to the portion so leased.

(c) The Board of Directors shall have the right to limit the number of invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by invitees to certain specified times.

(d) A Unit Owner's right and easement of enjoyment in and to the Common Elements shall not be conveyed, transferred, alienated or encumbered separate and apart from a Unit. Such right and easement of enjoyment in and to the Common Elements shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Unit, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to such right and easement.

(e) The provisions of this Section 3.4 shall not apply to any of the Limited Common Elements that are allocated to one or more but less than all of the Units.

3.5 Declarant's Use for Sales And Leasing Purposes.

(a) The Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Condominium and to maintain one or more marketing, directional or advertising signs on the Common Elements while the Declarant is selling Units in the Condominium. The Declarant reserves the right to place models, management offices and sales and leasing offices in any Units owned or leased by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate. (It is understood that such sales activities may continue for the entire life of the Condominium,

as Declarant may reacquire Units pursuant to repurchase option agreements and resell or lease such Units.)

(b) The Declarant may from time to time relocate models, management offices and sales and leasing offices to different locations within the Condominium. Upon the relocation of a model, management office or sales and leasing office constituting a Common Element, the Declarant may remove all personal property and fixtures therefrom.

(c) So long as the Declarant is marketing Units in the Condominium, the Declarant shall have the right to restrict the use of the parking spaces which are not allocated as Limited Common Elements. Such right shall include reserving such spaces for use by prospective Unit purchasers, the Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

(d) The Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction and maintenance of the Condominium that has not been represented to the Association as property of the Association. The Declarant reserves the right to remove from the Condominium any and all goods and improvements used in development, marketing and construction, whether or not they have become fixtures.

3.6 Declarant's Rights and Easements.

(a) The Declarant shall have the right and an easement on and over the Common Elements to construct the Common Elements, Buildings and all other Improvements the Declarant may deem necessary, and to use the Common Elements and any Units owned by the Declarant for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work in the Condominium.

(b) The Declarant shall have the right and an easement on, over and under those portions of the Common Elements not located within the Buildings for the purpose of maintaining and correcting drainage of surface, roof or storm water; provided, however, nothing shall obligate Declarant to maintain or correct any such drainage conditions. The easement created by this Subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

(c) The Declarant shall have an easement through the Units, including the Buildings, for any access necessary to complete any renovations, warranty work or modifications to be performed by the Declarant.

(d) The Declarant shall have the right and an easement on, over, and through the Common Elements as may be reasonably necessary for the purpose of discharging its obligations and exercising Special Declarant Rights whether arising under the Condominium Act or reserved in this Declaration.

3.7 Easement for Support. To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Condominium, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in the Condominium, the Common Elements and the Limited Common Elements.

3.8 Common Elements Easement in Favor of the Association. The Common Elements shall be subject to an easement in favor of the Association and the agents, employees and independent contractors of the Association for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements and for the purpose of exercising all rights of the Association and discharging all obligations of the Association.

3.9 Common Elements Easement in Favor of Unit Owners. The Common Elements shall be subject to the following easements in favor of the Units and Unit Owners benefited:

(a) For the installation, repair, maintenance, use, removal or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring, cables and equipment and all other utility lines and conduits which are a part of or serve any Unit and which pass across or through a portion of the Common Elements.

(b) For the installation, repair, maintenance, use, removal or replacement of lighting fixtures, electrical receptacles, panel boards and other electrical installations which are a part of or serve any Unit but which encroach into a part of a Common Element adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building.

(c) For driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit, the bottom surface of floor joists above the Unit and the top surface of the floor joists below the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Element adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of the Building or impair or structurally weaken the Building.

(d) For the maintenance of any lighting devices, outlets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of the Common Elements.

(e) For the ingress and egress by a Unit Owner over any driveway or entryway serving such Unit which may encroach upon any adjacent Common Elements or other Unit.

(f) For the performance of the Unit Owners' obligation to maintain, repair, replace and restore those portions of the Limited Common Elements that the Unit Owner is obligated to maintain under Section 5.2 of this Declaration.

3.10 Units and Limited Common Elements Easement in Favor of Association. The Units and the Limited Common Elements are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

(a) For inspection of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible;

(b) For inspection, maintenance, repair and replacement of the Common Elements or the Limited Common Elements situated in or accessible from such Units or Limited Common Elements;

(c) For correction of emergency conditions in one or more Units or the Limited Common Elements or casualties to the Common Elements, the Limited Common Elements or the Units.

(d) For the purpose of enabling the Association, the Board of Directors or any other committees appointed by the Board of Directors to exercise and discharge their respective rights, powers and duties under the Condominium Documents.

(e) For inspection, at reasonable times and upon reasonable notice to the Unit Owner, of the Units and the Limited Common Elements in order to verify that the provisions of the Condominium Documents are being complied with by the Unit Owners, their guests, tenants, licensees, invitees and the other occupants of the Unit.

3.11 Easement for Unintended Encroachments. To the extent that any Improvement constructed on a Unit or Common Element encroaches on any other Unit or Common Element as a result of original construction, shifting or settling, or alteration or restoration authorized by this Declaration or any reason other than the intentional encroachment on the Common Elements or any Unit by a Unit Owner, a valid easement for the encroachment, and for the maintenance thereof, exists.

**ARTICLE 4
USE AND OCCUPANCY RESTRICTIONS**

4.1 Use.

(a) All Units shall be used, improved and devoted exclusively to uses permitted by City of Surprise zoning classification PAD, conforming to all applicable zoning ordinances and requirements, and shall not be used for any other purpose. The business activity conducted upon the Units shall be consistent with PAD zoning and shall not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Unit Owners and occupants in the Condominium, as may be determined from time to time in the sole discretion of the Board of Directors.

(b) The Office Buildings shall be used (i) as an office for professional use or for administrative, clerical, or sales services or (ii) by financial institutions such as banks, savings and loans, finance companies, title insurance and trust companies.

(c) The Undeveloped PAD may be used for the purposes listed in Subsection 4.2(b) above, or may be developed with a building to be used as a restaurant.

4.2 Antennas. No antenna, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the Condominium whether attached to a Unit, Building, structure or otherwise, unless approved by the Board of Directors or installed by Declarant.

4.3 Utility Service. No lines, wires, solar energy devices or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, except those installed by Declarant, shall be erected, placed or maintained anywhere in or upon the Condominium unless they are installed and maintained underground or concealed in, under or on Units, Buildings or other structures so as not to be visible from the Common Elements. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Buildings or structures permitted under this Declaration.

4.4 Improvements and Alterations.

(a) Any Unit Owner may make non-structural additions, alterations and improvements within its Unit without the prior written approval of the Board of Directors, but such Unit Owner shall, to the extent permitted under Arizona law, be responsible for any damage to other Units, Limited Common Elements and to the Common Elements which results from any such alterations, additions or improvements. No Unit Owner shall make any structural additions, alterations or improvements within a Unit, unless prior to the commencement of each addition, alteration or improvement, the Unit Owner receives the prior written approval of the Board of Directors 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 Unit Owner shall, to the extent permitted by

Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a Unit or within any Limited Common Element allocated to the exclusive use of a Unit, whether structural or not and whether permanent or temporary, which would be visible from the exterior of the Unit or from the exterior of the Limited Common Element shall be made without the prior written approval of the Board of Directors, which approval shall only be granted if the Board of Directors affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding Improvements. No Unit Owner shall make any addition, alteration or improvement to the Common Elements without the prior written approval of the Board of Directors.

(b) No excavation or grading work shall be performed on any Unit without the prior written approval of the Board of Directors.

(c) Any Unit Owner who is required to obtain approval of the Board of Directors for the construction, installation, addition, alteration, repair, change or replacement of any Improvement shall submit to the Board of Directors (i) a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Unit Owner desires to perform, including, without limitation, the distance of such work from neighboring properties, if applicable; (ii) plans and specifications, if applicable; (iii) any other information which the Board of Directors may request; and (iv) any fee payable pursuant to Subsection 4.4(f) of this Declaration. If the Board of Directors fails to approve or disapprove an application for approval within sixty (60) days after the submittal of the completed application and all supporting information, plans and specifications requested by the Board of Directors have been submitted to the Board of Directors, approval will not be required and this section will be deemed to have been complied with by the Unit Owner who had requested approval of such plans. The approval by the Board of Directors of any construction, installation, addition, alteration, repair, change or other work pursuant to this section shall not be deemed a waiver of the Board of Director's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

(d) Upon receipt of approval from the Board of Directors for any construction, installation, addition, alteration, repair, change or other work, the Unit Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Board of Directors as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Board of Directors.

(e) Any change, deletion or addition to the plans and specifications approved by the Board of Directors must be approved in writing by the Board of Directors.

(f) The Board of Directors shall have the right to charge a fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section 4.4, which fee shall be payable at the time the application for approval is submitted to the Board of Directors.

(g) All Improvements constructed on Units shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Unit.

(h) The approval by the Board of Directors of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section 4.4 shall not be deemed a warranty or representation by the Board of Directors as to the quality of such construction, installation, addition, alteration, repair, change or other work or that such construction, installation, addition, alteration, repair, change or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

(i) The provisions of this section do not apply to, and approval of the Board of Directors shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvements made by, or on behalf of, the Declarant.

(j) The approval required of the Board of Directors pursuant to this Section 4.4 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

4.5 Trash Containers and Collection. No garbage or trash shall be placed or kept on the Condominium except in covered containers of a type, size and style which are approved by the Board of Directors. The Board of Directors shall have the right to subscribe to a trash service for the use and benefit of the Association and all Unit Owners, and to adopt and promulgate rules and regulations regarding garbage, trash, trash containers and collection. The Board of Directors shall have the right to require all Unit Owners to place trash and garbage in containers located in areas designated by the Board of Directors. No incinerators shall be kept or maintained in any Unit.

4.6 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the Condominium: (i) 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 uses permitted by this Declaration, (ii) except that which the Declarant or the Association may require for the construction, operation and maintenance of the Common Elements; and (iii) except machinery or equipment related to the permitted uses of the Units.

4.7 Removal of Minerals. 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.

4.8 Diseases and Insects. No Unit Owner shall permit any thing or condition to exist upon the Condominium which could induce, breed or harbor infectious plant diseases or noxious insects. Each Unit Owner shall perform such pest control activities as may be necessary to prevent insects, rodents and other pests from being present in the Unit.

4.9 Trucks, Trailers, Campers and Boats. No truck (except pick-up truck or sport utility vehicle), mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer, or other similar equipment or vehicle may be parked, kept, maintained, constructed, reconstructed or repaired on any part of the Condominium. The foregoing restriction shall not apply to delivery trucks or service vehicles, vans or other vehicles used in connection with the operation of, or providing services to, Units.

4.10 Motor Vehicles. Except for emergency repairs, no automobile, motorcycle, motorbike, all-terrain vehicle, golf cart or other motor vehicle shall be constructed, reconstructed, serviced or repaired on any portion of the Condominium, and no inoperable vehicle may be stored or parked on any portion of the Condominium. No automobile, motorcycle, motorbike, golf cart, or other motor vehicle shall be parked upon any part of the Condominium except in designated parking areas, or, in the case of automobiles or motorcycles belonging to temporary visitors or invitees only, in such visitor parking spaces as may exist from time to time on the Common Elements as designated by the Board of Directors.

4.11 Parking. The Board of Directors shall be entitled to designate and assign Covered Parking Spaces as set forth in Section 2.8 hereof. Unit Owners and their guests, invitees or customers may park vehicles in any uncovered parking space located within the Common Elements subject to the restrictions contained in this Declaration and any rules and regulations that may be promulgated by the Association from time to time.

4.12 Towing of Vehicles. The Board of Directors shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle, motorbike, all-terrain vehicle or other motor vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Condominium Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment.

4.13 Signs. No signs (including, but not limited to, "For Sale" or "For Rent" signs) shall be permitted on the exterior of any Unit or Building or any other portion of the Condominium or visible from the exterior of any Unit without the prior written approval of the Board of Directors. Notwithstanding the foregoing, Declarant shall be entitled to install and maintain such signs in connection with its sales activities as it deems appropriate.

4.14 Lawful Use. No immoral, improper, offensive, or unlawful use shall be made of any part of the Condominium. All 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.

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 unreasonably offensive or detrimental to any portion of the Condominium or to any Unit Owner or other occupant of the Condominium or is an unreasonable annoyance to any Unit Owner or other resident, as determined by the Board of Directors. No exterior speakers (except exterior speakers approved by the City of Surprise in connection with a permitted use of a Unit), 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 without the prior written approval of the Board of Directors.

4.16 Window Coverings. Each Unit Owner shall install interior window coverings on each window of a Unit within 60 days after a certificate of occupancy has been issued for the Unit or as otherwise approved by the Board of Directors. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Unit without the prior written approval of the Board of Directors. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Unit or any Limited Common Elements allocated to the Unit shall be constructed or installed without the prior written consent of the Board of Directors.

4.17 Limitation on Leasing of Units. 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 the lessee to comply with the terms of the Condominium Documents shall be a default under the lease. Upon leasing its Unit, a Unit Owner shall promptly notify the Association of the commencement date and termination date of the lease and the names of each lessee or other person who will be occupying the Unit during the term of the lease. Any Unit Owner who leases his Unit shall be responsible for assuring that the lessee complies with the Condominium Documents.

4.18 Variances. The Board of Directors may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 4 if the Board of Directors determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on a Unit Owner or occupant or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the variance will not have any substantial adverse effect on Unit Owners and occupants and is consistent with the high standards intended for occupants of the Condominium.

4.19 Declarant Approval Required. After the expiration of the Period of Declarant Control and for so long as the Declarant owns any Unit, any action for which the consent or approval of the Board of Directors is required under this Declaration may be taken only if such action is also consented to or approved by the Declarant.

ARTICLE 5 OPERATION, MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.1 Duties of the Association. The Association shall operate, maintain, repair and replace all Common Elements, whether located inside or outside the Units, except for the Limited Common Elements which the Unit Owners are obligated to maintain, repair and replace pursuant to Section 5.2 of this Declaration. Except as otherwise provided in Section 5.3 and to the extent actually collected from a Unit Owner, the cost of all such operation, maintenance, repairs and replacements shall be a Common Expense and shall be paid for by the Association.

5.2 Duties of Unit Owners.

(a) Each Unit Owner shall maintain, repair and replace, at its own expense, all portions of its Unit in accordance with the Maintenance Standard.

(b) Each Unit Owner shall be responsible for the maintenance and repair of the following portions of the Common Elements: (i) the Limited Common Elements allocated to the Unit pursuant to Subsection 2.5(b) of this Declaration; (ii) the glass windows allocated to the Unit as Limited Common Elements pursuant to Section 2.8(a)(iv) of this Declaration; and (iii) the concrete slab and all other Improvements within the interior of the patio or balcony and storage closet, if any, allocated to the Unit as a Limited Common Element pursuant to Section 2.8.(a)(i) of this Declaration.

5.3 Repair or Restoration Necessitated by Unit Owner. Each Unit Owner shall be liable to the Association, to the extent permitted by Arizona law, for any damage to the Common Elements or the Improvements, landscaping or equipment thereon which results from the negligence or willful conduct of the Unit Owner. The cost to the Association of any such repair, maintenance or replacements required by such act of a Unit Owner shall be paid by the Unit 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.

5.4 Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair its Unit or any Limited Common Element which such Unit Owner is obligated to maintain under this Declaration and the required maintenance, repair or replacement is not performed within fifteen (15) days after written notice has been given to the Unit Owner by the Association, the Association shall have the right, but not the obligation, to perform the required maintenance, repair or replacement. The cost of any such maintenance, repair or replacement shall be assessed against the non-performing Unit Owner pursuant to Subsection 7.2(d) of this Declaration.

5.5 Utilities. The Association shall cause running water to be provided to each Unit by means of operation of the Common Elements, subject to interruption from causes beyond the Association's control. The costs of such water constitute Common Expenses. Electrical power will be separately metered to a Unit as part of the original construction and the Owner of that Unit shall pay directly for electrical power and other such utilities provided to its Unit through that meter. All other utilities, including telephone and cable television services, shall be arranged and paid for directly by the Unit Owner.

ARTICLE 6

THE ASSOCIATION; RIGHTS AND DUTIES, MEMBERSHIP

6.1 Rights, Powers and Duties of the Association. No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as nonprofit Arizona corporation. The Association shall be the entity through which the Unit Owners shall act. The Association 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 and the Condominium Act. The Association shall have the right to finance capital improvements in the Condominium by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Unit Owners representing more than fifty percent (50%) of the votes in the Association. Unless the Condominium Documents or the Condominium Act specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board of Directors. Notwithstanding anything herein to the contrary, so long as the Declarant owns any Unit, the prior written consent of the Declarant shall be required for any decision by the Association to establish self-management when professional management previously had been in place. The Association has the specific duty to make available to the Declarant and Unit Owners and their authorized agents current copies of the Declaration, Bylaws, Articles, Rules and other books, records and financial statements of the Association as may be requested from time to time by such parties, except those books, records and financial statements which by law may be withheld from disclosure. Such requests shall be in writing, and the Association shall have the right to charge for copying expenses.

6.2 Directors and Officers.

(a) During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board of Directors and the officers of the Association, none of whom shall be required to be Unit Owners.

(b) Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Board of Directors which must consist of at least three members, all of whom must be Unit Owners (or, in the case of Unit Owners that are not natural persons, legal representatives of Unit Owners). The Board of Directors elected by the Unit Owners shall then elect the officers of the Association.

(c) The Declarant may voluntarily surrender its right to appoint and remove the members of the Board of Directors and the officers of the Association before termination of the Period of Declarant Control, and in that event the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

6.3 Rules. The Board of Directors, from time to time and subject to the provisions of this Declaration and the Condominium Act, may adopt, amend, and repeal rules and regulations. The Rules may, among other things, restrict and govern the use of any area by any Unit Owner, or by any invitee, licensee or lessee of such Unit Owner. The Rules shall be enforced in a nondiscriminatory manner.

6.4 Composition of Members. Each Unit Owner shall be a Member of the Association. The membership of the Association at all times shall consist exclusively of all the Unit Owners.

6.5 Personal Liability. Neither Declarant nor any member of the Board of Directors or of any committee of the Association, any officer of the Association nor any manager or other employee of the Association shall be personally liable to any Member, or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Declarant, the Association, the Board of Directors, the manager, any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitations set forth in this section shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

6.6 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Condominium Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Condominium Documents or reasonably necessary to effectuate any such right or privilege.

6.7 Voting Rights. Subject to Section 6.8 below, each Unit Owner, including Declarant, shall be entitled to cast the number of votes for each Unit owned by such Unit

Owner in accordance with the allocation set forth in Section 2.7 of this Declaration on any Association matter which is put to a vote of the membership in accordance with this Declaration, the Articles and/or Bylaws.

6.8 Voting Procedures. No change in the ownership of a Unit shall be effective for voting purposes unless and until the Board of Directors is given actual written notice of such change and is provided satisfactory proof thereof. The votes for each such Unit must be cast as a unit, and division of the votes shall not be allowed. In the event that a Unit is owned by more than one (1) Person and such Unit Owners are unable to agree among themselves as to how their votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts votes representing a certain Unit, it will thereafter be conclusively presumed for all purposes that such Unit Owner was acting with the authority and consent of all other Unit Owners of the same Unit unless objection thereto is made at the time the votes are cast. In the event more than the permitted votes are cast by a Member for a particular Unit, none of the votes shall be counted and all of the votes shall be deemed void.

6.9 Transfer of Membership. The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of a Unit Owner's Unit, and then only to the transferee of ownership to the Unit. A transfer of ownership to a Unit may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as 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. Any transfer of ownership to a Unit shall operate to transfer the membership appurtenant to said Unit to the new Unit Owner thereof. Each Purchaser of a Unit shall notify the Association of its purchase within ten (10) days after becoming the Unit Owner of a Unit.

6.10 Suspension of Voting Rights. If any unit Owner fails to pay any Assessments or other amounts due to the Association under the Condominium Documents within fifteen (15) days after such payment is due or if any Unit Owner violates any other provision of the Condominium Documents and such violation is not cured within fifteen (15) days after the Association notifies the Unit Owner of the violation, the Board of Directors shall have the right to suspend such Unit Owner's right to vote until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Condominium Documents are corrected.

6.11 Conveyance or Encumbrance of Common Elements. The Common Elements shall not be conveyed or subjected to a mortgage, deed of trust or security interest without the prior written consent or affirmative vote of Unit Owners representing at least fifty-one percent (51%) of the votes allocated to Unit Owners other than the Declarant. In addition, any conveyance, encumbrance, judicial sale or other transfer (whether voluntary or involuntary) of an individual interest in the Common Elements shall be void unless the Unit to which that interest is allocated also is transferred. Notwithstanding the foregoing, the Board of Directors, without a vote of the Unit



Owners, may grant easements for ingress and egress to adjacent property owners over portions of the Common Elements already designated as roadways if such easements are required by the City of Surprise.

ARTICLE 7 ASSESSMENTS

7.1 Preparation of Budget.

(a) At least sixty (60) days before the beginning of each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board of Directors believes will be required during the ensuing fiscal year to pay all Common Expenses, including, but not limited to: (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units, if any, which the Association has the responsibility of maintaining, repairing and replacing; (ii) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (iii) the amount required to render to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; and (iv) such amounts as may be necessary to provide general operating reserves and reserves for contingencies and replacements. The budget shall separately reflect any Common Expenses to be assessed against less than all of the Units pursuant to Subsection 7.2(d) or Subsection 7.2(e) of this Declaration.

(b) Within thirty (30) days after the adoption of a budget, the Board of Directors shall send to each Unit Owner a summary of the budget and a statement of the amount of the Common Expense Assessment assessed against the Unit of the Unit Owner in accordance with Section 7.2 of this Declaration. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay its allocable share of the Common Expenses as provided in Section 7.2 of this Declaration, and each Unit Owner shall continue to pay the Common Expense Assessment against its Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been established by the Board of Directors.

(c) The Board of Directors is expressly authorized to adopt and amend budgets for the Association, and no ratification of any budget by the Unit Owners shall be required.

7.2 Common Expense Assessment.

(a) For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors (except for the Common Expenses which are to be assessed against less than all of the Units pursuant

to Subsections 7.2(d) and 7.2(e) of this Declaration) shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in Section 2.6 of this Declaration. Notwithstanding the foregoing, however, in the event that the Undeveloped PAD is developed with a building that is used as a restaurant, the Unit Owner shall pay twice the normal proportionate share of the Common Expense Assessment, subject to Section 2.9 hereof regarding costs associated with Sprinkler Riser Closets. The amount of the Common Expense Assessment assessed pursuant to this Subsection 7.2(a) shall be in the sole discretion of the Board of Directors. If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, non-payment of Assessments by Members, it may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date designated by the Board of Directors.

(b) The Common Expense Assessments shall commence as to all Units on the first day of the month following the conveyance of the first Unit to a Purchaser, provided, however, that the obligation to pay the Common Expense Assessment for the Undeveloped PAD shall commence on the first day of the month following the date that the Undeveloped PAD is fully developed and in use. The first Common Expense Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors may require that the Common Expense Assessments or Special Assessments be paid in installments.

(c) Except as otherwise expressly provided for in this Declaration, all Common Expenses, including, but not limited to, Common Expenses associated with the maintenance, repair and replacement of a Limited Common Element, shall be assessed against all of the Units in accordance with Subsection 7.2(a) of this Declaration.

(d) If any Common Expense is caused by the misconduct of any Unit Owner, the Association shall assess that Common Expense exclusively against its Unit.

(e) Assessments to pay a judgment against the Association may be made only against the Units at the time the judgment was entered, in proportion to their Common Expense Liabilities.

(f) All Assessments, monetary penalties and other fees and charges levied against a Unit shall be the personal obligation of the Unit Owner of the Unit at the time the Assessments, monetary penalties or other fees and charges became due. The personal obligation of a Unit Owner for Assessments, monetary penalties and other fees and charges levied against its Unit shall not pass to any unrelated bona fide third party who succeeds to the title of the Unit Owner unless expressly assumed by such successor, but such Assessments, monetary penalties and other fees and charges shall constitute an Assessment Lien on the Unit, as provided in Section 7.4, regardless of whether they are so assumed as personal obligations of the successor Owner.

7.3 Special Assessments. In addition to Common Expense 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 Common Elements, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any Special Assessment shall have first been approved by Unit Owners representing two-thirds (2/3) of the votes of Units in the Association, voting in person or by proxy at a meeting duly called for such purpose. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Unit Owners.

7.4 Effect of Non-Payment of Assessments; Remedies of the Association.

(a) Any Assessment, or any installment of an Assessment, which is not paid within five (5) days after the Assessment first became due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of interest established from time to time by the Board of Directors.

(b) All Assessments, monetary penalties and other fees and charges imposed or levied against any Unit or Unit Owner shall be secured by the Assessment Lien as provided for in the Condominium Act. The recording of this Declaration constitutes record notice and perfection of the Assessment Lien, and no further recordation of any claim of lien shall be required. Although not required in order to perfect the Assessment Lien, the Association shall have the right, but not the obligation, to record a notice setting forth the amount of any delinquent assessments, monetary penalties or other fees or charges imposed or levied against a Unit or the Unit Owner which are secured by the Assessment Lien.

(c) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, monetary penalties and all other fees and charges owed to the Association in any manner allowed by law, including, but not limited to: (i) bringing an action at law against the Unit Owner personally obligated to pay the delinquent amounts and such action may be brought without waiving the Assessment Lien securing any such delinquent amounts; or (ii) bringing an action to foreclose its Assessment 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 in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale upon such terms and conditions as the Board of Directors shall determine. In addition, the Association shall have the right to post publicly the names of persons who are delinquent in the payment of Assessments.

7.5 Subordination of Assessment Lien to Mortgages. The Assessment Lien shall be subordinate to the lien of any First Mortgage. Any Mortgagee or any other party acquiring title or coming into possession of a Unit through foreclosure of a First Mortgage, purchase at a foreclosure sale or trustee's 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, monetary penalties and other fees and charges against the Unit which became payable prior to such sale or

transfer. Any delinquent Assessments, monetary penalties and other fees and charges which are extinguished pursuant to this Section may be reallocated and assessed to all Units as a Common Expense. Any Assessments, monetary penalties and other fees and charges against the Unit which accrue prior to such sale or transfer shall remain the personal obligation of the defaulting Unit Owner.

7.6 Exemption of Unit Owner. No Unit Owner may exempt himself from liability for payment of Assessments, monetary penalties and other fees and charges levied pursuant to the Condominium Documents by waiver and non-use of any of the Common Elements and facilities or by the abandonment of its Unit.

7.7 Certificate of Payment. The Association, on 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 its Unit. The statement shall be furnished within twenty (20) business days after receipt of the request and is binding on the Association, the Board of Directors, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement.

7.8 No Offsets. All Assessments, monetary penalties and other fees and charges shall be payable in accordance with the provisions of this Declaration, and no offsets, recoupment or claim against such Assessments, monetary penalties and other fees and charges shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Condominium Documents or the Condominium Act.

7.9 Surplus Funds. Surplus funds of the Association remaining after payment of or provisions for Common Expenses and any reserves may in the discretion of the Board of Directors either be returned to the Unit Owners pro rata in accordance with each Unit Owner's Common Expense Liability or be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Assessments.

7.10 Monetary Penalties. In accordance with the procedures set forth in the Bylaws, the Board of Directors shall have the right to levy reasonable monetary penalties against a Unit Owner for violations of the Condominium Documents.

7.11 Transfer Fee. Each Purchaser of a Unit shall pay to the Association immediately upon becoming the Owner of the Unit a transfer fee in such amount as is established from time to time by the Board of Directors.

ARTICLE 8 INSURANCE

8.1 Scope of Coverage.

(a) Commencing not later than the date of the first conveyance of a Unit to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(i) Property insurance on the Common Elements and Units, exclusive of improvements and betterments installed in Units by Unit Owners, issued under a standard form "All Risk of Direct Physical Loss Form" in an amount equal to the maximum insurable replacement value of the Common Elements and Units, as determined by the Board of Directors; provided, however that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundations and other items normally excluded from a property insurance policy.

(ii) Broad Form Comprehensive general liability insurance, for a limit to be determined by the Board of Directors, but not less than \$1,000,000.00 for any single occurrence. 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 Common Elements. Such policy shall include (i) a cross-liability clause to cover liabilities of the Unit Owners as a group to a Unit Owner, (ii) medical payments insurance and contingent liability coverage arising out of the use of hired and non-owned automobiles, and (iii) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

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

(iv) Directors' and officers' liability insurance covering all the directors and officers of the Association in such limits as the Board of Directors may determine from time to time.

(v) If there is a steam boiler used in connection with the Condominium, boiler explosion insurance evidenced by the standard form of boiler machinery insurance policy and providing coverage in the minimum amount of \$50,000.00 per accident per location.

(vi) If the Condominium is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a "blanket policy" of flood insurance on the Condominium in the lesser of one hundred percent (100%) of the current replacement cost of the buildings

and any other property covered on the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended.

(vii) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board of Directors, the members of any committee or the Board of Directors or the Unit Owners.

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

(a) Each Unit Owner shall be an insured or additional insured under the policy with respect to liability arising out of its ownership of an undivided interest in the Common Elements or its membership in the Association.

(b) There shall be no subrogation with respect to the Association, its agents, servants, and employees against Unit Owners and members of their household.

(c) No act or omission by any Unit Owner, unless acting within the scope of its authority on behalf of the Association, shall void the policy or be a condition to recovery on the policy.

(d) The coverage afforded by such policy shall be primary and shall not be brought into contribution or proration with any insurance which may be purchased by Unit Owners or their mortgagees or beneficiaries under deeds of trust.

(e) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners.

(f) The Association shall be the insured for use and benefit of the individual Unit Owners (designated by name if required by the insurer).

(g) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the Association and each First Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial change in coverage or cancellation of the policy.

(h) Any insurance trust agreement will be recognized by the insurer.

(i) "Agreed Amount" and "Inflation Guard" endorsements.

(b) If, at the time of a loss insured under an insurance policy purchased by the Association, the loss is also insured under an insurance policy purchased by a Unit Owner, the Association's policy shall provide primary coverage.

8.2 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.

8.3 Insurance Obtained by Unit Owners. The issuance of insurance policies to the Association pursuant to this Article shall not prevent a Unit Owner from obtaining insurance for its own benefit and at its own expense covering its Unit, its personal property and providing personal liability coverage.

8.4 Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article shall be adjusted with 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 Unit Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in A.R.S. § 33-1253.

8.5 Certificate of Insurance. An insurer that has issued an insurance policy pursuant to this Article 8 shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy shall not cancel or refuse to renew the policy until thirty (30) days (ten (10) days in the case of non-payment of premium) after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

ARTICLE 9 RESERVATION OF DEVELOPMENT AND SPECIAL DECLARANT RIGHTS

Declarant reserves the right at any time and from time to time, subject to the provisions of the Condominium Act, to exercise any or all of the Development Rights and the Special Declarant Rights. Specifically, but without limitation, Declarant reserves the following rights:

9.1 Development Rights. Declarant reserves the right to exercise all development rights under A.R.S. §33-1202(14).

9.2 Right to Complete Improvements and Construction Easement. Declarant hereby reserves the right to complete the construction of Improvements on the Condominium, and an easement over the Condominium for the purpose of doing so.

9.3 Offices, Model Offices and Promotional Signs. Declarant reserves the right to maintain offices for sales and management and models as provided in Section 3.4

above, and to maintain signs on the Common Elements for so long as Declarant owns any portion of the Condominium.

9.4 Use of Easements. Declarant reserves the right to use easements through the Common Elements for the purpose of making Improvements within the Condominium.

9.5 Merger or Consolidation. Declarant reserves the right to merge or consolidate the Association with another common-interest community of the same form of ownership.

9.6 Appointment and Removal of Directors and Officers. Declarant reserves the right to appoint and remove any officer of the Association or any member of the Board of Directors, as set forth in Section 6.2 above, for the time period set forth therein.

9.7 Addition of Real Estate; Subdivision of Property. Declarant reserves the right to add to the Condominium.

ARTICLE 10 GENERAL PROVISIONS

10.1 Enforcement. The Association, or any Unit 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 Unit 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.

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

10.3 Duration. The covenants and restrictions of this Declaration shall run with and bind the Condominium until its expiration of December 31, 2099.

10.4 Termination of Condominium. The Condominium shall terminate on December 31, 2099 or as otherwise provided for in the Condominium Act.

10.5 Amendment.

(a) Except in cases of amendments that may be executed by a Declarant in the exercise of its Development Rights or under Section 33-1220 of the Condominium Act, by the Association under Section 33-1206 or 33-1216(D) of the Condominium Act, or by certain Unit Owners under Section 33-1218(B), Section 33-1222, Section 33-1223 or Section 33-1228(B) of the Condominium Act, the Declaration, including the Plat, maybe amended only by a vote of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

(b) Except to the extent expressly permitted or required by the Condominium Act, an amendment to the Declaration shall not create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any Unit, the allocated Interest of a Unit, or the use as to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners.

(c) An amendment to the Declaration shall not terminate or decrease any unexpired Development Right, Special Declarant Right or Period of Declarant Control unless the Declarant approves the amendment in writing.

(d) During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to (i) comply with the Condominium Act or any other applicable law if the amendment does not adversely affect the rights of any Unit Owner, (ii) correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner, or (iii) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments.

(e) Any amendment adopted by the Unit Owners pursuant to Subsection 10.5(a) of this Declaration shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of Maricopa County. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Subsection 10.5(d) of this Declaration or the Condominium Act shall be executed by the Declarant and shall be recorded with the County Recorder of Maricopa County.

10.6 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

10.7 Notices. All notices, demands, statements or other communications required or permitted to be given to or served on a Unit Owner under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed to the Unit Owner, at the address which the Unit Owner shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Unit Owner. A Unit Owner may change its address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association in accordance with the requirements of this Section. A notice given by mail, whether regular, certified, or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three days after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Each Unit Owner shall file its current mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

10.8 Binding Effect. By acceptance of a deed or by acquiring any ownership interest in any portion of the Condominium, each Person, for itself, its heirs, personal representatives, successors, transferees and assigns, binds itself, its heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter 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 improvement and development of the real property covered thereby and hereby evidences its 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 Unit Owners, grantees, purchasers, assignees, 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 Unit Owners. The Declarant, its successors, assigns and grantees, covenants and agrees that 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.

10.9 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, or men or women, shall in all cases be assumed as though in each case fully expressed.

10.10 Topic Headings. 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.

10.11 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.

10.12 Construction. In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Bylaws or the Association Rules, the provisions of this Declaration shall prevail.

10.13 Joint and Several Liability. In the case of joint ownership of a Unit, the liabilities and obligations of each of the joint Unit Owners set forth in, or imposed by, the Condominium Documents shall be joint and several.

10.14 Tenants and Invitees. Each Unit Owner shall be responsible for compliance by its agents, tenants, guests, invitees, licensees and their respective servants, agents, and employees with the provisions of the Condominium Documents. A Unit Owners' failure to insure compliance by such Persons shall be grounds for the same action available to the Association or any other Unit Owner by reason of such Unit Owner's own non-compliance.

10.15 Attorneys' Fees. In the event the Declarant, the Association or any Unit Owner employs an attorney or attorneys to enforce a lien or to collect any amounts due from a Unit Owner or to enforce compliance with or recover damages for any violation or non-compliance with the condominium documents, the prevailing party in any such action shall be entitled to recover from the other party its reasonable attorneys' fees incurred in the action.

10.16 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 next day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

10.17 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Unit 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: (i) the name of the Unit Owner; (ii) the legal description of the Unit against which the notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Unit Owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the Unit 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 of the Unit against which the Notice of Violation was recorded, the recording data of the Notice of Violation, 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.

10.18 Construction Defect Dispute Notification and Resolution Procedure. All actions or claims (i) by the Association against any one or more of the Declarant Parties, (ii) by any Unit Owner(s) against any one or more of the Declarant Parties, or (iii) by both the Association and any Unit Owner(s) against any one or more of the Declarant Parties, relating to or arising out of the Condominium, including but not limited to, the Declaration or any other Condominium Documents, the use or condition of the Condominium or the design or construction of or any condition on or affecting the Condominium, including, but not limited to, construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (including, but not

limited to, Units) or disputes which allege negligence or other tortious conduct, breach of contract or breach of implied or express warranties as to the condition of the Condominium or any Improvements (collectively, "Dispute(s)") shall be subject to the provisions of this Section 10.18. Declarant and each Unit Owner acknowledge that the provisions set forth in this Section 10.18 shall be binding upon current and future Unit Owners of the Condominium and upon the Association, whether acting for itself or on behalf of any Unit Owner(s)."

(a) Notice. Any Person (including the Association) with a Dispute claim shall notify the Declarant in writing of the claim, which writing shall describe the nature of the claim and any proposed remedy (the "Claim Notice").

(b) Right to Inspect and Right to Corrective Action. Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, Declarant and the claimant shall meet at a mutually acceptable place within the Condominium to discuss the claim. At such meeting or at such other mutually agreeable time, the Declarant and the Declarant's representatives shall have full access to the property that is the subject of the claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing the same in a manner deemed appropriate by Declarant (provided Declarant shall repair or replace any property damaged or destroyed during such inspection or testing), which rights shall continue until such time as the Dispute is resolved as provided in this Subsection 10.18(b). The parties shall negotiate in good faith in an attempt to resolve the claim. If the Declarant elects to take any corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Condominium and the property which is the subject of the claim to take and complete corrective action.

(c) No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in Subsection 10.18(b) shall be construed to impose any obligation on Declarant to inspect, test, repair or replace any item of the Condominium for which Declarant is not otherwise obligated under applicable law or any limited warranty provided by Declarant in connection with the sale of the Condominium and/or the Improvements constructed thereon. The right of Declarant to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form executed and recorded by Declarant in the Official Records of Maricopa County, Arizona.

(d) Mediation. If the parties to the Dispute cannot resolve the claim pursuant to the procedures described in Subsection 10.18(b) above, the matter shall be submitted to mediation pursuant to the mediation procedures adopted by the American Arbitration Association (except as such procedures are modified by the provisions of this Subsection 10.18(d)) or any successor thereto or to any other entity offering mediation services that is acceptable to the parties. No person shall serve as a mediator in any dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. No

litigation or other action shall be commenced against the Declarant without complying with the procedures described in this Subsection 10.18(d).

(i) Position Memoranda; Pre-Mediation Conference. Within ten (10) days of the selection of the mediator, each party shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties shall attend unless otherwise agreed. The mediation shall be commenced within ten (10) days following the submittal of the memoranda and shall be concluded within fifteen (15) days from the commencement of the mediation unless the parties mutually agree to extend the mediation period. The mediation shall be held in the county in which the Condominium is located or such other place as is mutually acceptable by the parties.

(ii) Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

(iii) Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

(iv) Parties Permitted at Sessions. Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of both parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation while serving in such capacity shall be confidential. There shall be no stenographic record of the mediation process.

(v) Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof or expert advice produced at the direct request of the mediator, shall be borne equally by the parties unless they agree otherwise. Each party to the mediation shall bear its own attorneys' fees and costs in connection with such mediation.

(e) Arbitration. Should mediation pursuant to Subsection 10.18(d) above not be successful in resolving any Dispute, such claim or dispute shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association as modified or as otherwise provided in this Subsection 10.18(e). The parties shall cooperate in good faith to attempt to cause all necessary and appropriate parties to be included in the arbitration proceeding. Subject to

the limitations imposed in this Subsection 10.18(e), the arbitrator shall have the authority to try all issues, whether of fact or law.

(i) Place. The proceedings shall be heard in the county in which the Condominium is located.

(ii) Arbitration. A single arbitrator shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the Association with experience in relevant real estate matters or construction. The arbitrator shall not have any relationship to the parties or interest in the Condominium. The parties to the Dispute shall meet to select the arbitrator within ten (10) days after service of the initial complaint on all defendants named therein.

(iii) Commencement and Timing of Proceeding. The arbitrator shall promptly commence the proceeding at the earliest convenient date in light of all of the facts and circumstances and shall conduct the proceeding without undue delay.

(iv) Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

(v) Discovery. The parties shall be entitled only to limited discovery, consisting of the exchange between the parties of only the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Dispute, including but not limited to, destructive or invasive testing; and (vi) trial briefs. The parties shall also be entitled to conduct further tests and inspections as provided in Subsection 10.18(b) above. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(vi) Limitation on Remedies/Prohibition on the Award of Punitive Damages. The arbitrator shall not have the power to award punitive or consequential damages. As further provided below, the right to punitive and consequential damages is waived by the parties. The arbitrator shall have the power to grant all other legal and equitable remedies and award compensatory damages in the proceeding.

(vii) Motions. The arbitrator shall have the power to hear and dispose of motions, including motions to dismiss, motions for judgment on the pleadings and summary judgment motions, in the same manner as a trial court judge, except the arbitrator shall also have the power to adjudicate summarily issues of fact or law including the availability of remedies, whether or not the issue adjudicated could dispose of an entire cause of action or defense.

(viii) Arbitration Award. The arbitrator's award may be enforced as provided for in the Uniform Arbitration Act, A.R.S. § 12-1501, et seq., or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held.

(f) Waivers.

NOTICE: BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE CONDOMINIUM, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY DISPUTE RESOLVED ACCORDING TO THE PROVISIONS OF THIS SECTION 12.20 AND WAIVES THE RIGHT TO PURSUE ANY DISPUTE IN ANY MANNER OTHER THAN AS PROVIDED IN THIS SECTION 12.20. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 12.20, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH DISPUTES TRIED BEFORE A JURY. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A DISPUTE. BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE CONDOMINIUM, EACH UNIT OWNER HAS VOLUNTARILY ACKNOWLEDGED THAT HE IS GIVING UP ANY RIGHTS HE MAY POSSESS TO PUNITIVE AND CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A DISPUTE.

(g) Statutes of Limitation. Nothing in this Section 10.18 shall be considered to toll, stay, reduce or extend any applicable statute of limitations.

(h) Required Consent of Declarant to Modify. Neither this Section 10.18 nor Section 10.18 below may be amended except in accordance with Subsection 10.5(a) of this Declaration and with the express written consent of the Declarant.

10.19 Required Consent of Unit Owners for Legal Action. Notwithstanding anything to the contrary contained in this Declaration, and in addition to any actions of the Association required by law, any action or claim instituted by the Association against any one or more of the Declarant Parties, relating to or arising out of the Condominium, the Declaration or any other Condominium Documents, the use or condition of the Condominium or the design or construction of or any condition on or affecting the Condominium, including, but not limited to, construction defects, surveys, soils conditions, grading, specifications, installation of Improvements (including, but not limited to, Units) or disputes which allege negligence or other tortious conduct, breach of contract or breach of implied or express warranties as to the condition of the Condominium or any Improvements, shall have first been approved by Unit Owners representing seventy-five percent (75%) of the votes in the Association who are voting in person or by proxy at a meeting duly called for such purpose.

(a) Notice of Unit Owners.

(i) Prior to obtaining the consent of the Unit Owners in accordance with Section 10.19, the Association must provide written notice to all Unit Owners which notice shall (at a minimum) include (1) a description of the nature of any action or claim (the "Claim"), (2) a description of the attempts of Declarant to correct such Claim and the opportunities provided to Declarant to correct such Claim, (3) a certification from an engineer licensed in the State of Arizona that such Claim is valid along with a description of the scope of work necessary to cure such Claim and a resume of such engineer, (4) the estimated cost to repair such Claim, (5) the name and professional background of the attorney proposed to be retained by the Association to pursue the Claim against Declarant and a description of the relationship between such attorney and member(s) of the Board of Directors (if any), (6) a description of the fee arrangement between such attorney and the Association, (7) the estimated attorneys' fees and expert fees and costs necessary to pursue the Claim against Declarant and the source of the funds which will be used to pay such fees and expenses, (8) the estimated time necessary to conclude the action against Declarant, (9) an affirmative statement from the Board of Directors that the action is in the best interest of the Association and its Members, and (10) all information required pursuant to A.R.S. § 33-1901 et seq., as it may be amended from time to time, applicable to the Claim.

(ii) In the event the Association recovers any funds from Declarant (or any other person or entity) to repair a Claim, any excess funds remaining after repair of such Claim shall be paid into the Association's reserve fund.

(b) Notification to Prospective Purchasers. In the event that the Association commences any action or claim, all Unit Owners must notify prospective purchasers of such action or claim and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Subsection 10.19(a).

10.20 Effect of Declaration. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto.

10.21 No Representations or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents, consultants or employees in connection with the Condominium, or any portion thereof, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, costs of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration.

10.22 Right to Configure Project. To the extent permitted by law, the Declarant shall have the right, at any time, to change the design, size and configuration, or make any other changes as it deems appropriate, of the Condominium. There is no guarantee that the Condominium will be developed as originally planned.

IN WITNESS WHEREOF, the undersigned the Declarant has executed this Condominium Declaration as of the day and year first above written.

DECLARANT:

A & H HOLDINGS, LLC, an Arizona limited liability company

By: [Signature]
Arthur Rozek
Its Member/Manager

V and G INVESTMENTS INC., an Illinois corporation

By: [Signature]
Gregory A. Gienko
Its President

STATE OF Arizona)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 18th day of January, 2005, by Arthur Rozek, Member/Manager of A & H Holdings, LLC, an Arizona limited liability company, on behalf of the company.

[Signature]
Notary Public

My Commission Expires:

March 03, 2006



Notary Public State of Arizona
Maricopa County
Cristy Walker
Expires March 03, 2006

STATE OF Arizona)
County of Maricopa) ss.

The foregoing instrument was acknowledged before me this 18th day of January, 2005, by Gregory A. Gienko, President of V and G Investments, Inc., an Illinois corporation, on behalf of the corporation.

Kathleen D. Clark
Notary Public

My Commission Expires:

12/4/08



RATIFICATION:

The undersigned, as beneficiary under that certain deed of trust recorded August 19, 2004, in document 2004-0968904 and acting pursuant to the terms thereof and the authority granted therein, does hereby ratify, consent to, confirm and approve the this Declaration.

Joe M. Blyle

By: Joe M. Blyle

Its: Vice President

STATE OF ARIZONA)
County of MARICOPA) ss.

The foregoing instrument was acknowledged before me this 18th day of January, 2005, by Joseph M. Blyle the vice president of First National Bank of Arizona on behalf of the bank.

Kristen McLean
Notary Public

My Commission Expires:

April 19, 2007

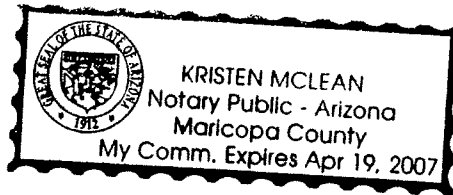


Exhibit A

**Description of Condominium Project,
aka The Fields of Surprise Office Condominiums**

Buildings 1A, 1B, 2, 3, 4A, 4B, 5, 6, 7, 8, 9, 10, 11A, 11B, 12A, 12B, 12C, 13 and 14, and TRACT "A", according to the plat of record, FIELDS OF SURPRISE OFFICE CONDOMINIUMS, recorded in Book 723 of Plats, page 44, in the official records of the Maricopa County Recorder's Office, Arizona.

Which was formerly known as:

Parcel 22 of the ORCHARDS – AMENDED, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, recorded in Book 588 of Maps, Page 27, and thereafter Affidavit of Correction recorded July 24, 2002 as 2002-0746750 of official records.