

"n) E U E U V E
JAN 19 2004
By _____

When recorded, mail to:

Sydney OPC Developments, L.L.C.
2120 E. 6th Street, Suite 2
Tempe, Arizona 85281
Attn: Mr. Robert Hunt

OFFICIAL RECORDS OF MARICOPA
COUNTY RECORDER HELEN PURCELL
20031426724 10/10/2003 16:21
ELECTRONIC RECORDING
Other 500370902A-16-1-1--

111 50 03 70902

**SECOND AMENDMENT
TO
CONDOMINIUM DECLARATION FOR
ODYSSEY PROFESSIONAL CENTER, A CONDOMINIUM
RECORDED AT DOCUMENT NO. 2003-0146843,
OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA**

THIS SECOND AMENDMENT TO CONDOMINIUM DECLARATION FOR ODYSSEY PROFESSIONAL CENTER, A CONDOMINIUM ("Second Amendment"), is made this 6 day of October, 2003, by Sydney OPC Developments, L.L.C., an Arizona limited liability company (the "Declarant").

Recitals:

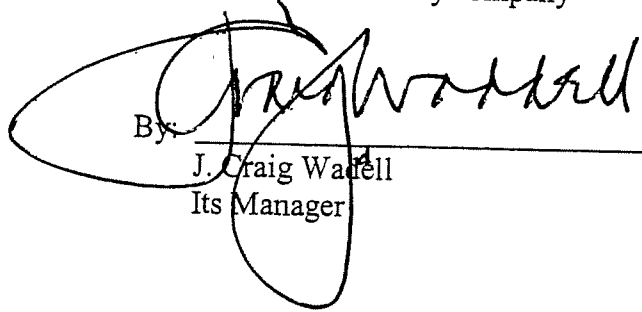
- A. Odyssey Professional Center, a Condominium (the "Condominium") was created pursuant to the terms and conditions of that certain Declaration of Condominium Declaration for Odyssey Professional Center, a Condominium, dated as of February 4, 2003, and recorded in the Office of the Recorder of Maricopa County, Arizona on February 6, 2003, at Document No. 2003-0146843 and amended by that certain First Amendment to Condominium Declaration for Odyssey Professional Center dated September 30, 2003 and recorded on October 3, 2003 at Document No. 2003-1394454, (the Declaration and First Amendment are collectively referred to herein as the "Declaration").
- B. The Declarant, as that term is defined in the Declaration, and the owners of other Units in the Condominium, desire to amend the Exhibit "B" to the Declaration to reflect the relocation of the boundaries between Units owned by Declarant and by certain other owners, and to reflect the gross square footage contained in the Units, the allocation of common expense liability and the number of Units allocated to each Unit.
- C. Declarant, and the other Unit Owners, also desire to amend the Declaration include the dimensions and locations of the Units described on Exhibit C.
- D. The amendments contained herein reflect the exercise by the Declarant of certain rights retained by the Declarant under the provisions of Section 2.5.4 of the Declaration and have been unanimously approved by all the Unit Owners who comprise all of the Members of the Association, as evidenced by Exhibit A attached hereto and incorporated by this reference.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Definitions. Capitalized terms used in this Second Amendment shall have the meaning ascribed to them in the Declaration.
2. Replacement of Exhibit B. Exhibit B to the Declaration is hereby deleted in its entirety and the document attached to this Second Amendment as Exhibit B to Declaration is hereby substituted as Exhibit B to the Declaration. The Unit numbers of the Units within the Condominium, the gross square footage of the Units contained in the Condominium, the undivided interest in Common Elements and Common Expenses and Votes allocated to each Unit shall be described on Exhibit B attached to this Second Amendment.
3. Depiction of Unit Boundaries. The boundaries and locations of the Units are set forth on Exhibit C attached hereto and incorporated herein by this reference (the "Depiction"). The Declarant reserves the right, without the approval or consent of any other Unit Owners, to amend the Declaration to delete the Depiction at such time as an amended Plat, has been approved by the City and has been recorded in the Office of the Recorder of Maricopa County, Arizona.
4. Unit Numbers. Following the recordation of this Second Amendment, the Condominium Unit numbers as described on the Plat are hereby superseded and replaced by the Condominium Unit numbers set forth on Exhibit B attached hereto.
5. Amendment of Section 2.4 of Declaration. The provisions of Section 2.4 of the Declaration are deleted in their entirety and the following is inserted in lieu thereof:
 - 2.4 Identifying Numbers of Units. The identifying numbers of the Units are set forth on Exhibit B attached hereto and incorporated herein by this reference.
6. Owners and Association Consent. Pursuant to the Unanimous Consent attached hereto as Exhibit "A," all the owners of Units in the Condominium and all of the Members of the Odyssey Professional Center Unit Owners Association consent to the execution and recordation of this Second Amendment and agree to be bound by the terms thereof.
7. Interpretation. Except as set forth herein, all other terms and conditions of the Declaration shall remain the same and in full force and effect.

IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, has executed this Second Amendment on the date first set forth above to be effective as the date set forth above.

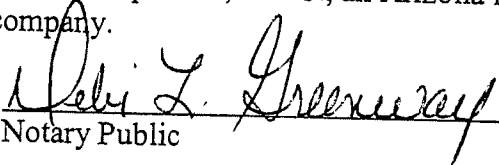
Sydney OPC Developments, L.L.C., an Arizona limited liability company

By: 

J. Craig Wadell
Its Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

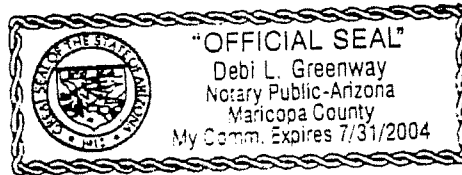
The foregoing instrument was acknowledged before me this 7 day of October, 2003 by J. Craig Wadell, the Manager of Sydney OPC Developments, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.



Notary Public

My Commission Expires:

7/31/04

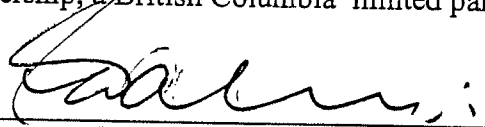


CONSENT AND APPROVAL OF LENDER

The undersigned, Odyssey Professional Centre Limited Partnership, as to a 50% interest, the GlennEagles Partnership, a Washington general partnership, as to a 16.7% interest, and Marathon Investment Corporation, a Washington corporation, as to a 33.3% interest, as the beneficiary under that certain Deed of Trust, Assignment of Rents and Security Agreement dated as of March 11, 2002, and which was recorded on March 12, 2002 in the Official Records of Maricopa County, Arizona, at Document No. 2002-0255824, does hereby approve the foregoing Second Amendment to Condominium Declaration for Odyssey Professional Center, a Condominium, and does hereby consent to the recordation of the same.

Executed this 7 day of October, 2003.

Bancorp Financial Services Inc as General Partner
for Odyssey Professional Centre Limited
Partnership, a British Columbia limited partnership

By: 
Its: Authorized Signatory **RON PATON**

Gleneagles Partnership, a Washington general
partnership

By: 
Its: Authorized Signatory **RON PATON**

Marathon Investment Corporation, a Washington
corporation

By: 
Its: Authorized Signatory **RON PATON**

Province of British Columbia
City of Vancouver

The foregoing instrument was acknowledged before me this 7TH day of October, 2003, by Ron Paton, an authorized signatory of Bancorp Financial Services Inc., the General Partner of Odyssey Professional Centre Limited Partnership, a British Columbia limited partnership, on behalf of the limited partnership.



Notary Public

Douglas Bentley
Barrister & Solicitor
#488 - 1090 West Georgia Street
Vancouver, BC V6E 3V7

My Commission Expires:

Dec 31/03

Province of British Columbia
City of Vancouver

The foregoing instrument was acknowledged before me this 7TH day of October, 2003, by Ron Paton, an authorized signatory of Gleneagles Partnership, a Washington general partnership, on behalf of the limited partnership.



Notary Public

Douglas Bentley
Barrister & Solicitor
#488 - 1090 West Georgia Street
Vancouver, BC V6E 3V7

My Commission Expires:

Dec 31/03

Province of British Columbia
City of Vancouver

The foregoing instrument was acknowledged before me this 7TH day of October, 2003, by Ron Paton, the an authority signatory of Marathon Investment Corporation, a Washington corporation, on behalf of the corporation.



Notary Public

Douglas Bentley
Barrister & Solicitor
#488 - 1090 West Georgia Street
Vancouver, BC V6E 3V7

My Commission Expires:

Dec 31/03

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego

} ss.

On 10-8-2003, before me, Robt. C. Espinoza, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Nancy Arden, Vice President
Name(s) of Signer(s)



- personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: CONSENT AND APPROVAL OF LENDER

Document Date: OCTOBER 8, 2003 Number of Pages: 13

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Nancy Arden

- Individual
 Corporate Officer — Title(s): Vice President
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: U.S. Bank National Association

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

EXHIBIT "A"

Unanimous Consent

**ACTION BY UNANIMOUS CONSENT
OF THE MEMBERS OF
ODYSSEY PROFESSIONAL CENTER UNIT OWNERS ASSOCIATION
(an Arizona non-profit corporation)**

The undersigned, being all the members of Odyssey Professional Center Unit Owners Association, an Arizona non-profit corporation (the "Company"), pursuant to Arizona Revised Statute § 29-683, do hereby authorize, approve and consent to the adoption of the following resolutions and the actions hereby contemplated, effective as of the date hereafter set forth opposite the Members' signatures.

RESOLVED, that the Condominium Declaration for Odyssey Professional Center, a Condominium, dated as of February 4, 2003 and recorded in the Office of the Recorder of Maricopa County, Arizona, on February 6, 2003 at Document No. 2003-0146843 as amended by that certain First Amendment to Condominium Declaration dated September 30, 2003 and recorded on October 3, 2003 at Document No. 2003-1394454 (the Declaration and First Amendment are collectively referred to as the "Declaration") may be further amended to provide for the Units described therein to be further divided and the boundaries between such Units to be adjusted and a description of the same to be placed of record, all as provided and reflected in a Second Amendment to Condominium Declaration for Odyssey Professional Center in substantially the form submitted to the undersigned Members and in an amended Plat for the Condominium, consistent with the Second Amendment to Condominium Declaration.

RESOLVED, FURTHER, that the Declarant is authorized and directed, without further action on the part of the Members or the Association to amend the Declaration to delete any references to the "Depiction," as described in the Second Amendment, at such time as an amended Plat has been approved by the appropriate governmental authorities and recorded in the Office of the Recorder of Maricopa County, Arizona.

RESOLVED, FURTHER, that the President and/or the Secretary be, and hereby are, authorized and directed, to certify the adoption of such resolution(s) as may be required or appropriate to carry out the purposes of the foregoing resolution(s), provided that any resolution(s) so certified shall be consistent with the foregoing resolution(s).

RESOLVED, FURTHER, that the above resolutions shall be in full force and effect and be binding upon the Company until it shall have been repealed and until written notice of such repeal shall have been delivered to any appropriate parties.

RESOLVED, FURTHER, that this unanimous consent may be executed in counterparts, each of which shall constitute an original, but all of which constitute one and the same consent.

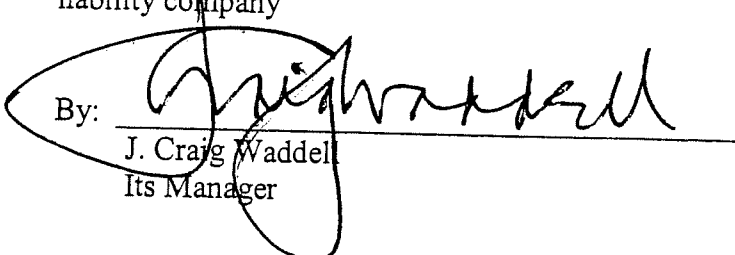
IN WITNESS WHEREOF, the undersigned, comprising the Members of Company, have executed this document as of the dates set forth opposite their signatures.

MEMBERS:

Sydney OPC Development, L.L.C., an Arizona limited liability company

Dated: _____

By: _____


J. Craig Waddell
Its Manager

Child Mortgage Corporation, an Arizona corporation

Dated: _____

By: _____

Adam W. Child
Its President

Dated: _____

Robert E. Ryan

Dated: _____

Kathleen Ryan

Dated: _____

Metro Cactus Properties, L.L.C., an Arizona limited liability company

By: _____

Brian A. Klimes
Its Manager

Dated: _____

IN WITNESS WHEREOF, the undersigned, comprising the Members of Company, have executed this document as of the dates set forth opposite their signatures.

MEMBERS:

Sydney OPC Development, L.L.C., an Arizona limited liability company

Dated: _____

By: _____
J. Craig Waddell
Its Manager

Child Mortgage Corporation, an Arizona corporation

Dated: _____

By: _____
Adam W. Child
Its President

Dated: _____

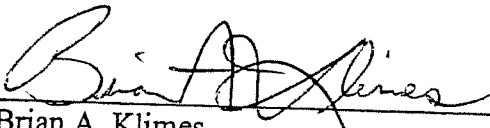
Robert E. Ryan

Dated: _____

Kathleen Ryan

Dated: _____

Metro Cactus Properties, L.L.C., an Arizona limited liability company

By:  _____
Brian A. Klimes
Its Manager

Dated: _____

MEMBERS:

Sydney OPC Development, L.L.C., an Arizona limited liability company

Dated: _____

By: _____
J. Craig Waddell
Its Manager

Child Mortgage Corporation, an Arizona corporation

Dated: _____

By: _____
Adam W. Child
Its President

Dated: _____

Robert E. Ryan

Dated: _____

Kathleen Ryan

Dated: _____

Metro Cactus Properties, L.L.C., an Arizona limited liability company

By: _____
Brian A. Klimes
Its Manager

MEMBERS:

Sydney OPC Development, L.L.C., an Arizona limited liability company

Dated: _____

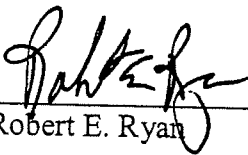
By: _____
J. Craig Waddell
Its Manager

Child Mortgage Corporation, an Arizona corporation

Dated: _____


By: _____
Adam W. Child
Its President

Dated: _____



Robert E. Ryan

Dated: _____



Kathleen Ryan

Dated: _____

Metro Cactus Properties, L.L.C., an Arizona limited liability company

By: _____
Brian A. Klimes
Its Manager

EXHIBIT "B"
to
Condominium Declaration
for
Odyssey Professional Center, a Condominium

(Unit Identification Numbers, Gross Square Footage,
Allocation of Common Expense Liability and Votes Allocated to Units)

BUILDING NUMBER	UNIT NUMBER	GROSS SQUARE FOOTAGE
1	100	11,552
2	200	1,763
2	210	1,077
2	220	2,004
2	230	2,139
2	240	2,138
3	300	5,190
4	400	2,022
4	410	1,187
4	420	1,925
5	500	11,520
6	600	1,979
6	610	1,791
6	620	1,993
7	700	2,763
7	710	1,902
7	720	1,995
7	730	1,920
8	800	3,387
8	810	1,853
8	820	2,433
8	830	3,834

Based upon the gross square footage of all Units, the percentage of undivided interest in the Common Elements and in the Common Expenses of the Association for the Units is as follows:

<u>UNIT NUMBER</u>	<u>UNDIVIDED PERCENTAGE INTEREST IN COMMON ELEMENTS AND COMMON EXPENSES</u>
100	16.92%
200	2.58%
210	1.57%
220	2.93%
230	3.13%
240	3.13%
300	7.59%
400	2.96%
410	1.74%
420	2.81%
500	16.84%
600	2.89%
610	2.62%
620	2.91%
700	4.04%
710	2.78%
720	2.92%
730	2.81%
800	4.95%
810	2.71%
820	3.56%
830	5.61%

EXHIBIT "C"

THAT CERTAIN MAP OF ODYSSEY PROFESSIONAL CENTER AS RECORDED ON
OCTOBER 10, 2003, ACCORDING TO BOOK 655 OF MAPS, PAGE 48,
RECORDS OF MARICOPA COUNTY, ARIZONA.

When recorded, mail to:

Sydney OPC Developments, L.L.C.
2120 E. 6th Street, Suite 2
Tempe, Arizona 85281
Attn: Mr. Robert Hunt

500370922A-13-1-1--
Leonardil

1/1 500370922A

FIRST AMENDMENT
TO
CONDOMINIUM DECLARATION FOR
ODYSSEY PROFESSIONAL CENTER, A CONDOMINIUM
RECORDED AT DOCUMENT NO. 2003-0146843,
OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA

THIS FIRST AMENDMENT TO CONDOMINIUM DECLARATION FOR ODYSSEY PROFESSIONAL CENTER, A CONDOMINIUM ("First Amendment"), is made this 30 day of September, 2003, by Sydney OPC Developments, L.L.C. (the "Declaration").

Recitals:

A. Odyssey Professional Center, a Condominium (the "Condominium") was created pursuant to the terms and conditions of that certain Declaration of Condominium Declaration for Odyssey Professional Center, a Condominium, dated as of February 4, 2003, and recorded in the Office of the Recorder of Maricopa County, Arizona on February 6, 2003, at Document No. 2003-0146843, (the "Declaration").

B. The Declarant, as that term is defined in the Declaration, and the owners of other Units in the Condominium desires to amend the Exhibit "B" to the Declaration to reflect the relocation of the boundaries between Units owned by Declarant and by certain other owners, and to reflect the gross square footage contained in the Units, the allocation of common expense liability and the number of Units allocated to each Unit.

C. Declarant, and the other owners, also desire to amend the Declaration to reflect certain amendments regarding the definition of the Declarant and restriction on certain window coverings.

D. The amendments contained herein reflect the exercise by the Declarant of certain rights retained by the Declarant under the provisions of Section 2.5.4 of the Declaration and have been unanimously approved by all the Unit Owners who comprise all of the Members of the Association, as evidenced by Exhibit A attached hereto and incorporated by this reference.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Definitions. Capitalized terms used in this First Amendment shall have the meaning ascribed to them in the Declaration.

2. Amendment of Definition of Declarant. The Declaration is amended by the deletion of the provisions of Section 1.2.16 in its entirety, and the replacement thereof, with the following:

1.2.16 "Declarant" means Sydney OPC Developments, L.L.C., an Arizona limited liability company, and its successors and any Person to whom it may transfer any Special Declarant Rights by a Recorded instrument. To the extent that an "affiliate of Sydney OPC Developments, L.L.C. purchases all or any portion of the Building designated or "Building One" on the Plat, the purchasing affiliate shall not become the Declarant hereunder, and shall have only rights as a Member in the Condominium. As used herein, the term "affiliate" shall mean an entity that is owned, in whole or in part, by Sydney OPC Developments, L.L.C. or any members of Sydney OPC Developments, L.L.C.

3. Amendment of Window Coverings Covenant in Declaration, Section 4.15 of the Declaration is deleted in its entirety and the following is inserted in lieu thereof:

4.15 Window Coverings. No reflective materials, including, but not without limitation, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any window of a Unit without the prior written approval of the Board of Directors. No enclosures, drapes, blinds, shades or screens or other item affecting the exterior of a Unit shall be constructed or installed without the prior written consent of the Board of Directors, which consent shall not be unreasonably withheld, provided that the window coverings are compatible with the design of the Condominium.

4. Replacement of Exhibit B. Exhibit B to the Declaration is hereby deleted in its entirety and the document attached to this First Amendment as Exhibit B to Declaration is hereby substituted as Exhibit B to the Declaration. The Unit numbers of the Units within the Condominium, the gross square footage of the Units contained in the Condominium, the undivided interest in Common Elements and Common Expenses and Votes allocated to each Unit shall be described on Exhibit B attached to this First Amendment.

5. Unit Numbers. Following the recordation of this First Amendment, the Condominium Unit numbers as described on the Plat are hereby superseded and replaced by the Condominium Unit numbers set forth on Exhibit B attached hereto.

6. Owners and Association Consent. Pursuant to the Unanimous Consent attached hereto as Exhibit "A." all the owners of Units in the Condominium and all of the Members of the Odyssey Professional Center Unit Owners Association consent to the execution and recordation of this First Amendment and agree to be bound by the terms thereof.

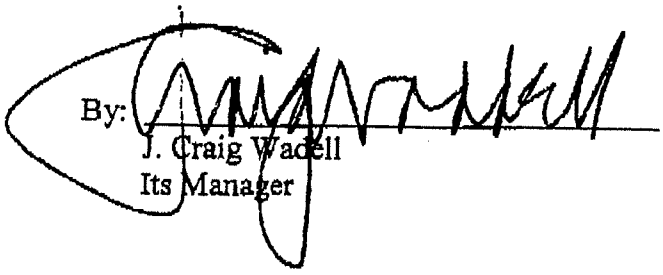
7. Interpretation. Except as set forth herein, all other terms and conditions of the Declaration shall remain the same and in full force and effect.

7. Owners and Association Consent. Pursuant to the Unanimous Consent attached hereto as Exhibit "A," all the owners of Units in the Condominium and all of the Members of the Odyssey Professional Center Unit Owners Association consent to the execution and recordation of this First Amendment and the amended Plat and agree to be bound by the terms thereof.

8. Interpretation. Except as set forth herein, all other terms and conditions of the Declaration shall remain the same and in full force and effect.


IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, has executed this First Amendment on the date first set forth above to be effective as the date set forth above.

Sydney OPC Development, L.L.C., an
Arizona limited liability company

By: 
J. Craig Wadell
Its Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 30 day of September, 2003 by J. Craig Wadell, the Manager of Sydney OPC Developments, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.


Notary Public

My Commission Expires: _____



20031027507

CONSENT AND APPROVAL OF LENDER

The undersigned, Odyssey Professional Centre Limited Partnership, as to a 50% interest, the GlennEagles Partnership, a Washington general partnership, as to a 16.7% interest, and Marathon Investment Corporation, a Washington corporation, as to a 33.3% interest, as the beneficiary under that certain Deed of Trust, Assignment of Rents and Security Agreement dated as of March 11, 2002, and which was recorded on March 12, 2002 in the Official Records of Maricopa County, Arizona, at Document No. 2002-0255824, does hereby approve the foregoing First Amendment to Condominium Declaration for Odyssey Professional Center, a Condominium, and does hereby consent to the recordation of the same.

Executed this 30th day of Sept, 2003.

Bancorp Financial Services Inc as General Partner
for Odyssey Professional Centre Limited
Partnership, a British Columbia limited partnership

By: [Signature]
Its: Authorized Signatory

Gleneagles Partnership, a Washington general
partnership

By: [Signature]
Its: Authorized Signatory

Marathon Investment Corporation, a Washington
corporation

By: [Signature]
Its: Authorized Signatory

Province of British Columbia
City of Vancouver

The foregoing instrument was acknowledged before me this 30th day of Sept, 2003, by Ron Paton, an authorized signatory of Bancorp Financial Services Inc., the General Partner of Odyssey Professional Centre Limited Partnership, a British Columbia limited partnership, on behalf of the limited partnership.



Notary Public

Douglas Bentley
Barrister & Solicitor
#488 - 1090 West Georgia Street
Vancouver, BC V6E 3V7

My Commission Expires:

Dec 31/03

Province of British Columbia
City of Vancouver

The foregoing instrument was acknowledged before me this 30th day of Sept, 2003, by Ron Paton, an authorized signatory of Gleneagles Partnership, a Washington general partnership, on behalf of the limited partnership.



Notary Public


Douglas Bentley
Barrister & Solicitor
#488 - 1090 West Georgia Street
Vancouver, BC V6E 3V7

My Commission Expires:

Dec 31/03

Province of British Columbia
City of Vancouver

The foregoing instrument was acknowledged before me this 30th day of Sept, 2003, by Ron Paton, the _____ of Marathon Investment Corporation, a Washington corporation, on behalf of the corporation.



Notary Public

Douglas Bentley
Barrister & Solicitor
#488 - 1090 West Georgia Street
Vancouver, BC V6E 2V7

My Commission Expires:

Dec 31/03

EXHIBIT "A"

Unanimous Consent

**ACTION BY UNANIMOUS CONSENT
OF THE MEMBERS OF
ODYSSEY PROFESSIONAL CENTER UNIT OWNERS ASSOCIATION
(an Arizona non-profit corporation)**

The undersigned, being all the members of Odyssey Professional Center Unit Owners Association, an Arizona non-profit corporation (the "Company"), pursuant to Arizona Revised Statute § 29-683, do hereby authorize, approve and consent to the adoption of the following resolutions and the actions hereby contemplated, effective as of the date hereafter set forth opposite the Members' signatures.

RESOLVED, that the Condominium Declaration for Odyssey Professional Center, a Condominium, dated as of February 4, 2003 and recorded in the Office of the Recorder of Maricopa County, Arizona, on February 6, 2003 at Document No. 2003-0146843 (the "Declaration") may be further amended to provide for an amended plat, allowing the Units described therein to be further divided and the boundaries between such Units to be adjusted, all as provided and reflected in a First Amendment to Condominium Declaration for Odyssey Professional Center in substantially the form submitted to the undersigned Members and in an amended (or completed) Plat for the Condominium, consistent with the First Amendment to Condominium Declaration.

RESOLVED, FURTHER, that the Declaration may be amended to reflect a revised definition of the Declarant and further restrictions on the types of window coverings that may be placed in the Units.

RESOLVED, FURTHER, that the President and/or the Secretary be, and hereby are, authorized and directed, to certify the adoption of such resolution(s) as may be required or appropriate to carry out the purposes of the foregoing resolution(s), provided that any resolution(s) so certified shall be consistent with the foregoing resolution(s).

RESOLVED, FURTHER, that the above resolutions shall be in full force and effect and be binding upon the Company until it shall have been repealed and until written notice of such repeal shall have been delivered to any appropriate parties.

RESOLVED, FURTHER, that this unanimous consent may be executed in counterparts, each of which shall constitute an original, but all of which constitute one and the same consent.

IN WITNESS WHEREOF, the undersigned, comprising the Members of Company, have executed this document as of the dates set forth opposite their signatures.

MEMBERS:

Sydney OPC Development, L.L.C., an Arizona limited liability company

Dated: _____

By: _____
J. Craig Waddell
Its Manager

Child Mortgage Corporation, an Arizona corporation

Dated: _____

By: _____
Adam W. Child
Its President

Dated: _____

Robert E. Ryan

Dated: _____

Kathleen Ryan

Dated: _____

Metro Cactus Properties, L.L.C., an Arizona limited liability company

By: _____
Brian A. Klimes
Its Manager

Based upon the gross square footage of all Units and each individual Unit, the Votes allocated to each Unit are as follows:

<u>UNIT NUMBER</u>	<u>UNDIVIDED INTEREST IN COMMON ELEMENTS AND COMMON EXPENSES</u>
100	16.92
200	2.58
210	1.57
220	2.93
230	3.13
240	3.13
300	7.59
400	2.96
410	1.74
420	2.81
500	16.84
600	2.89
610	2.62
620	2.91
700	4.04
710	2.78
720	2.92
730	2.81
800	4.95
810	2.71
820	3.56
830	5.61

Based upon the gross square footage of all Units, the percentage of undivided interest in the Common Elements and in the Common Expenses of the Association for the Units is as follows:

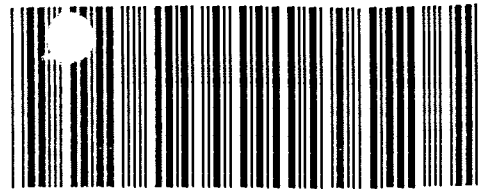
<u>UNIT NUMBER</u>	<u>UNDIVIDED PERCENTAGE INTEREST IN COMMON ELEMENTS AND COMMON EXPENSES</u>
100	16.92%
200	2.58%
210	1.57%
220	2.93%
230	3.13%
240	3.13%
300	7.59%
400	2.96%
410	1.74%
420	2.81%
500	16.84%
600	2.89%
610	2.62%
620	2.91%
700	4.04%
710	2.78%
720	2.92%
730	2.81%
800	4.95%
810	2.71%
820	3.56%
830	5.61%

Based upon the gross square footage of all Units and each individual Unit, the Votes allocated to each Unit are as follows:

<u>UNIT NUMBER</u>	<u>UNDIVIDED INTEREST IN COMMON ELEMENTS AND COMMON EXPENSES</u>
100	16.92
200	2.58
210	1.57
220	2.93
230	3.13
240	3.13
300	7.59
400	2.96
410	1.74
420	2.81
500	16.84
600	2.89
610	2.62
620	2.91
700	4.04
710	2.78
720	2.92
730	2.81
800	4.95
810	2.71
820	3.56
830	5.61

WHEN RECORDED RETURN TO:

Sydney OPC Developments, L.L.C.
2120 East Sixth Street
Suite 2
Tempe, Arizona 85281



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2003-0146843 02/06/03 09:48
1 OF 1

PALUN30A

CONDOMINIUM DECLARATION
FOR
ODYSSEY PROFESSIONAL CENTER
A Condominium

**CONDOMINIUM DECLARATION
 FOR
 ODYSSEY PROFESSIONAL CENTER
 A Condominium**

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CONDOMINIUM DECLARATION
FOR
ODYSSEY PROFESSIONAL CENTER
A Condominium

This Condominium Declaration for Odyssey Professional Center, a Condominium, is made this 4th day of February, 2003, by Sydney OPC Developments, L.L.C., an Arizona limited liability company.

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 Condominium Act and for purposes of this Declaration shall have the specific meanings set forth below:

1.2.1 "Assessments" means the Common Expense Assessments, Special Assessments and Enforcement Assessments levied pursuant to Article 7.

1.2.2 "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.

1.2.3 "Association" means Odyssey Professional Center Unit Owners Association, an Arizona nonprofit corporation, its successors and assigns.

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

1.2.5 "Building" means a building located on the Parcel and designated as a building on the Plat.

1.2.6 "Bylaws" means the Bylaws of the Association, as amended from time to time.

1.2.7 "City" means the City of Scottsdale, Arizona.

1.2.8 "Collection Costs" means all costs, fees, charges and expenditures (including, without limitation, attorneys' fees, court costs, filing fees and recording fees) incurred by the Association in collecting and/or enforcing payment of Assessments, monetary penalties, late fees, interest or other amounts payable to the Association pursuant to this Declaration.

1.2.9 "Common Elements" means all portions of the Condominium other than the Units. The Common Elements shall also include (a) the underground storm water storage tank, together with all associated pipes and pumps, necessary for the collection of storm water in the Condominium as described and located on the Plat, and (b) the sanitary sewer system located on the Parcel that serves the Condominium.

1.2.10 "Common Expenses" means the actual or estimated costs or expenses incurred or to be incurred by the Association or financial liabilities of the Association including, without limitation, the following:

(a) the cost of maintenance, management, operation, repair and replacement of the Common Elements and all other areas within the Condominium which are maintained by the Association, including but not limited to (i) the underground storm water storage tank, together with all associated pipes and pumps that are necessary for the collection of storm water in the Condominium, and (ii) the sanitary sewer system located on the Parcel that serves the Condominium;

(b) the cost of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, architects and employees;

(c) the cost of any utilities, trash pickup and disposal, elevator, landscaping, and other services benefiting the Unit Owners and their Units to the extent such services are paid for by the Association;

(d) the cost of fire, casualty, liability, worker's compensation and other insurance maintained by the Association as provided in this Declaration;

(e) reasonable reserves as deemed appropriate by the Board or otherwise required pursuant to the Condominium Documents;

(f) the cost of bonding of the directors, officers and employees of the Association, any professional managing agent or any other person handling the funds of the Association;

(g) taxes paid by the Association;

(h) amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Elements or portions thereof;

(i) the cost of any other item or items designated by, or in accordance with other expenses incurred by the Association for any reason whatsoever in furtherance of the purposes or the discharge of the obligations imposed on the Association by the Condominium Documents; and

(j) the costs of enforcing this Declaration, including legal and filing costs.

1.2.11 “Common Expense Assessment” means the assessment levied against the Units pursuant to Section 7.2.

1.2.12 “Common Expense Liability” means the liability for Common Expenses allocated to each Unit by Section 2.6.

1.2.13 “Condominium” means the Parcel, together with the Buildings and all other Improvements located thereon.

1.2.14 “Condominium Act” or “Act” means the Arizona Condominium Act, A.R.S. §33-1201, et seq., as amended from time to time.

1.2.15 “Condominium Documents” means this Declaration and the Articles, Bylaws, and Rules.

1.2.16 “Declarant” means Sydney OPC Developments, L.L.C., an Arizona limited liability company, and its successors and any Person to whom it may transfer any Special Declarant Right by a Recorded instrument.

1.2.17 “Declaration” means this Condominium Declaration for Odyssey Professional Center, a condominium, as amended from time to time.

1.2.18 “Development Rights” means any right or combination of rights to do any of the following:

- (a) Add real estate to the Condominium;
- (b) Create easements, Units, Common Elements or Limited Common Elements within the Condominium;
- (c) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units;
- (d) Withdraw real estate from the Condominium;
- (e) Make the Condominium part of a larger condominium or planned community;
- (f) 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;
- (g) 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.

1.2.19 "Enforcement Assessment" means an assessment levied pursuant to Section 7.4.

1.2.20 "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.

1.2.21 "First Mortgagee" means the holder of any First Mortgage.

1.2.22 "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, sculptures, signs, hedges, plants, trees and shrubs of every type and kind.

1.2.23 "Invitee" means any person whose presence within the Condominium is approved by or is at the request of a particular Unit Owner, Lessee or Occupant, including, without limitation, family members, guests, employees and contractors.

1.2.24 "Lessee" or "Lessees" means any Person who is the tenant or lessee under a written lease of a Unit.

1.2.25 "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.

1.2.26 "Member" means any Person who is or becomes a member of the Association.

1.2.27 "Occupant" or "Occupants" means a person, other than a Unit Owner, in possession of a Unit at the request of or with the consent of the Unit Owner.

1.2.28 "Parcel" means the real property legally described on Exhibit "A" that the Declarant shall submit to the Condominium.

1.2.29 "Parking Right" means the right to a covered and designated parking space located in the Common Elements, which Parking Right shall be subject to the conditions and restrictions of the Reciprocal Easement and Maintenance Agreement described in Section 3.10 herein.

1.2.30 "Period of Declarant Control" means the time period commencing on the date this Declaration is Recorded and ending on the earlier of (a) ninety (90) days after the conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than the Declarant; or (b) four (4) years after all Declarants have ceased to offer Units for sale in the ordinary course of business.

1.2.31 "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.

1.2.32 "Plat" means the condominium plat for Odyssey Professional Center, a Condominium, recorded in Book 614, page 21, the official records of the County Recorder of Maricopa County, Arizona, and any amendments, supplements or corrections thereto.

1.2.33 "Purchaser" means any Person, other than the Declarant, who by means of a voluntary transfer becomes a Unit Owner, except for a Person who purchases a Unit and then leases it to the Declarant for use in connection with the sale of other Units, or a Person who, in addition to purchasing a Unit, is assigned any Special Declarant Right.

1.2.34 "Recording" means placing an instrument of public record in the office of the County Recorder of Maricopa County, Arizona and "Recorded" means having been so placed of public record.

1.2.35 "Rules" means the rules and regulations adopted by the Board of Directors, as amended from time to time.

1.2.36 "Special Declarant Rights" means any right or combination of rights to do any of the following:

- (a) Construct Improvements provided for in this Declaration or shown on the Plat;
- (b) Exercise any Development Right;
- (c) Maintain sales offices, management offices, models, and signs advertising the Condominium;
- (d) Use easements through the Common Elements for the purpose of making Improvements within the Condominium;
- (e) Appoint or remove any officer of the Association or any member of the Board of Directors during the Period of Declarant Control;
- (f) Exercise the rights described in Section 3.4.

1.2.37 "Unit" means a portion of a Building designated for separate ownership or occupancy, the boundaries of which are described in Section 2.5 and shown on the Plat.

1.2.38 "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 holding an unconditional and binding Agreement 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 is the owner of fee title to the Parcel. Declarant hereby submits the Parcel 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 Parcel shall be held and conveyed subject to the terms, covenants, conditions and restrictions set forth in this Declaration. Declarant further declares that all of the easements, restrictions, conditions and covenants in this Declaration shall run with the Parcel and shall be binding upon and inure to the benefit of the Declarant and all Unit Owners, Lessees and Occupants and all other Persons having or acquiring any right, title or interest in the Condominium or any part thereof, their heirs, successors, successors in title and assigns. Each Person who acquires any right, title or interest in the Condominium, or any part thereof, agrees to abide by all of the provisions of the Condominium Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Association. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Condominium Documents, or as to the compliance of any of the provisions of the Condominium Documents with public laws, ordinances and regulations applicable thereto.

2.2 Name of Condominium. The name of the Condominium created by this Declaration is Odyssey Professional Center, a Condominium.

2.3 Name of Association. The name of the Association is Odyssey Professional Center Unit Owners Association.

2.4 Identifying Numbers of Units. The identifying numbers of the Units are 100 through 890, inclusive.

2.5 Unit Boundaries.

2.5.1 The boundaries of each Unit are as follows:

(a) The vertical boundaries are the interior finished but undecorated surfaces of the perimeter structural walls of the Unit.

(b) The lower horizontal boundary is the finished but undecorated surface floor of the Unit.

(c) The upper horizontal boundary is the imaginary line extending between vertical boundaries of the Unit described in Section 2.5(a) hereof from the undecorated surface of the "Underside" of each and every of the Unit's ceiling structural members to the undecorated surface of the "Underside" of the immediately adjoining ceiling structural member of the Unit. As used herein, the term "Underside" shall mean the surface area portion of each and every Unit's structural members that is located closest to the lower horizontal boundary of the Unit.

(d) Each Unit shall include any door or window within a perimeter wall of the Unit, the openings and outlets of all utility installations in the Unit and the firebox of any fireplace located in the Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and other materials constituting any part of the finished surfaces of the walls or floor are part of the Unit, and all other portions and other fixtures and improvements (including, but not limited to, chutes, flues, wires, conduits, heating and air conditioning units, hot water heaters and gas, cable television, water and electric pipes, lines or meters) within the boundaries of a Unit which serve only the Unit are part of the Unit, and any such fixtures or improvements located within the boundaries of a Unit but which serve more than one Unit are part of the Common Elements.

2.5.2 In interpreting deeds, the Plats or Plats, declarations, and plans, the existing physical boundaries of a Unit or a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the description expressed in the deed, plat, plan, or declaration, regardless of settling or lateral movement of a Building, and regardless of minor variances between the boundaries as shown on the plat or in the deed and declaration and those of the Unit.

2.5.3 In the event of any inconsistency or conflict between the provisions of this Section and the Plat in regard to the description of the boundaries of the Unit, this Section shall control.

2.5.4 Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant 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 Interests in Common Elements and Common Expense Liabilities.** Each Unit is allocated a percentage of undivided interest in the Common Elements and in the Common Expenses calculated by dividing the gross square footage of each Unit by the gross square footage of all the Units. For the sole purpose of determining the gross square footage of each Unit in order to allocate a percentage of undivided interest in the Common Elements and in the Common Expenses to each Unit, the boundaries of the Unit shall be deemed to be the exterior face of the perimeter wall of the Building in which the Unit is located and, in the case of Building containing two or more Units, the center of any demising wall between Units. The gross square footage of each Unit and the percentage of undivided interests of each Unit are set forth on Exhibit B attached to this Declaration. To the extent that Units are added or withdrawn from the Condominium, the percentage of undivided interest in the Common Elements and in Common Expenses to be allocated d to a Unit shall be calculated by dividing the gross square footage of each Unit in the Condominium after the additional withdrawal by the

gross square footage of all Units in the Condominium after the addition or withdrawal. The percentage of interest of each Unit in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of interest. The ownership of each Unit shall not be conveyed separate from the percentage of interest in the Common Elements allocated to the Unit. The undivided percentage of interest in the Common Elements allocated to any Unit shall always be deemed conveyed or encumbered with any conveyance or encumbrance of that Unit, even though the legal description in the instrument conveying or encumbering the Unit may refer only to the fee title to the Unit.

2.7 Allocation of Votes in the Association. The total votes in the Association shall be 100. The votes in the Association shall be allocated among the Units in accordance with each Unit's percentage of undivided interests in the Common Elements. The votes allocated to each Unit are set forth on Exhibit B attached to this Declaration. To the extent that Units are added or withdrawn from the Condominium, the total votes of 100 in the Association shall be re-allocated among all the Units included in the Condominium after the addition or withdrawal in accordance with each Unit's percentage of undivided interests in the Common Elements, as adjusted.

2.8 Ceiling Area and Common Elements. The Declarant is selling the Units in shell form and it is acknowledged by each Unit Owner that the ceiling structural members in each Building may be exposed. That portion of the Condominium located between the undecorated surface of the underside of the ceiling structural member(s) of each Building in the Condominium and either (a) the roof of a one-story Building or (b) the underside of the floor of the second level Unit in a two-story Building (the "Ceiling Area") is a Common Element. The Ceiling Area may be used for chutes, flues, wires, conduits, heating and air conditioning ducts and handlers, hot water heaters and cable television, water and electric pipes, or lines necessary to provide such services or utilities to Units located within each Building. A Unit Owner may make improvements or alterations to Ceiling Area in accordance with the provisions of Article 4 hereof governing modifications to Common Elements.

2.9 Allocation of Limited Common Elements.

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

(a) Any chute, flue, pipe, duct, wire, conduit or other fixture (including, but not limited to, heating and air conditioning units and related equipment and cable television, water and electric pipes, lines or meters), located outside of the boundaries of a Unit, which serve only one Unit are a Limited Common Element allocated solely to the Unit served;

(b) If a chute, flue, pipe, duct, wire, conduit or other fixture (including, but not limited to, hot water heaters, heating and air conditioning units and related equipment, cable television, water and electric pipes, lines or meters) lies partially within and partially outside the designated boundaries of a Unit, the portion outside the boundaries of the Unit which serve only the Unit is a Limited Common Element allocated solely to the Unit, the use of which is limited to the Unit served;

(c) Each Unit is allocated the parking space or parking spaces designated on Exhibit C attached hereto as being allocated to specific Unit.

2.9.2 Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements allocated to his Unit, subject to the rights granted to the Declarant or the Association by the Condominium Documents. All Units must be used in accordance with the Declaration and the Rules.

2.9.3 Subject to the provisions of the Reciprocal Easement and Maintenance Agreement described in Section 3.10, a Unit Owner of a Unit to which a parking space has been allocated may reallocate the parking space to another Unit Owner by Recording an amendment to this Declaration. The amendment shall be executed by the Unit Owners between or among whose Units the reallocation is made and shall state the manner in which the parking space is to be reallocated. Before Recording the amendment, the amendment shall be submitted to the Board of Directors. Unless the Board of Directors determines within thirty (30) days that the proposed amendment is unreasonable, which determination shall be in writing and specifically state the reasons for disapproval, the Association shall execute its approval and Record the amendment.

2.9.4 So long as the Declarant owns any Unit, the Declarant shall have the right to allocate as a Limited Common Element any part of the Common Elements which has not previously been allocated as a Limited Common Element. Any such allocation shall be made by an amendment to this Declaration executed by the Declarant and by an amendment to the Plat if required by the Condominium Act. After the Declarant no longer owns a Unit, the Board of Directors shall have the right, with the approval of Members holding at least sixty-seven percent (67%) of the total number of votes entitled to be cast by 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. All costs shall be paid by the Unit Owner receiving the benefit of the Limited Common Element.

ARTICLE 3

EASEMENTS AND DEVELOPMENT RIGHTS

3.1 Utility Easement. There is hereby granted and created an easement upon, across, over and under the Common Elements and the Units for the installation, replacement, repair or maintenance of utility lines and systems, including, but not limited to, water, sewer, telephone, electricity and cable television or other communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company, the Association or the Declarant to install and maintain the necessary utility lines, pipes, facilities and equipment on the Common Elements and the Units, but no sewer lines, electrical lines, water lines, or other utility or service lines or facilities may be installed or located on the Common Elements or the Units 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 granted and 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 granted and created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such streets and drives as from time to time may be paved 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 and their Invitees.

3.3 Unit Owners' Easements of Enjoyment.

3.3.1 Every Unit Owner, Lessee and Occupant 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:

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

(b) 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;

(c) The right of the Association to grant non-exclusive easements over all or a portion of the Common Elements if the Board of Directors determines that the granting of the easement is necessary for the development or maintenance of the Common Elements or beneficial to the Unit Owners and Occupants.

(d) All rights and easements set forth in this Declaration including, but not limited to, the rights and easements granted to the Declarant by Section 3.4;

(e) The right of the Association to suspend the right of a Unit Owner, Lessee or Occupant to use the Common Elements for any period during which the Unit Owner, Lessee or Occupant is in violation of any provision of the Condominium Documents.

3.3.2 Notwithstanding the provisions of Section 3.3.1 to the contrary, if a Unit is leased or rented, the Lessee and the Lessee's Invitees 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 until the termination or expiration of the lease.

3.3.3 The 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.

3.3.4 The provisions of this Section 3.3 shall not apply to any of the Limited Common Elements that are allocated to the exclusive use of one or more but less than all of the Units.

3.4 Declarant's Rights and Easements.

3.4.1 Declarant shall have the right and an easement to maintain sales or leasing offices, management offices, storage areas, models and related facilities throughout the Condominium and to maintain one or more marketing, directional or advertising signs on the Common Elements so long as the Declarant is marketing Units in the Condominium. Declarant reserves the right to maintain models, management offices, storage areas 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. Declarant may from time to time relocate models, storage areas, management offices and sales and leasing offices to different locations within the Condominium. Declarant shall have the right and an easement to post signs, flags and banners on the Common Elements in connection with its marketing of Units.

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

3.4.3 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.

3.4.4 Declarant and its employees, agents, contractors and subcontractors shall have the right and an easement on, over and across the Common Elements and the Units to erect and construct the Common Elements and the Units shown on the Plat and all other Improvements the Declarant may deem appropriate and to use the Common Elements and any Units owned by 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.

3.4.5 The Declarant and its employees, agents, contractors and subcontractors shall have an easement through the Units for the purpose of completing any renovations, warranty work or modifications to be performed by Declarant.

3.4.6 The Declarant and its employees, agents, contractors and subcontractors shall have the right and an easement on, over, and through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations under the Condominium Act and the Condominium Documents and for the purpose of exercising Special Declarant Rights whether arising under the Condominium Act or reserved in this Declaration.

3.4.7 To the extent not expressly reserved by or granted to Declarant by other provisions of this Declaration, Declarant reserves all Development Rights and Special Declarant Rights and the right to exercise all Development Rights and Special Declarant Rights.

3.4.8 The Declarant shall have the right to the exclusive use, without charge, of any portion of any of the facilities within the Common Elements on a short term basis for employee meetings, administrative purposes, special events or any other purpose, subject to the following: (a) the availability of the facilities at the time a request is submitted by Declarant to the Association; (b) the Declarant shall indemnify the Association against any loss or damage resulting from Declarant's use thereof, and (c) the Declarant shall return the facilities to the Association in the same condition as existed prior to Declarant's use thereof.

3.4.9 In the event of any conflict or inconsistency between this Section 3.4 and any other provision of the Condominium Documents, this Section 3.4 shall control and prevail over such other provisions. The rights of the Declarant set forth in this Section 3.4 shall be enforceable by injunction, by any other remedy available at law or in equity and/or by any means provided in this Declaration.

3.5 **Easement for Support.** There is hereby granted and reserved to each Unit a nonexclusive easement for structural support over every other Unit in the Building, the Common Elements, Limited Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to a non-exclusive easement for structural support in favor of every other Unit in the Building, the Common Elements and the Limited Common Elements.

3.6 **Easements and Rights of the Association.**

3.6.1 The Common Elements and the Units shall be subject to an easement in favor of the Association and its agents, employees and contractors for the purpose of (1) making emergency repairs to the Common Elements and those components of the Unit the Association is obligated to maintain pursuant to this Declaration; (2) inspection, upkeep, maintenance, repair and replacement of the Common Elements and those components of the Units which the Association is obligated to maintain pursuant to this Declaration; and (3) exercising all rights and powers of the Association and discharging all duties and obligations of the Association

3.6.2 Each Unit shall be subject to an easement in favor of the Association and the agents, employees and contractors of the Association for the purpose of performing such pest control activities as the Association may deem necessary to control or prevent the infestation of the Condominium by insects, rodents or other pests or to eradicate insects, rodents or other pests from the Condominium.

3.7 **Common Elements Easement in Favor of Unit Owners.** The Common Elements shall be subject to the following easements in favor of the Units 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 and cables 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 a Building or impair or structurally weaken a Building.

(c) 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.

3.8 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 at reasonable times and upon reasonable notice to the Unit Owner 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 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, Lessees and Occupants of the Unit.

3.9 Easement for Unintended Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element as a result of original construction, reconstruction, shifting, settlement or movement of any improvement or alteration or restoration authorized by this Declaration or any reason other than an encroachment created by the intentional conduct of gross negligence of a Unit Owner, a valid easement for the encroachment, and for the maintenance thereof, is hereby granted.

3.10 **Reciprocal Easement and Maintenance Agreement.** A Greek Orthodox Church is situated on real property located adjacent to the Condominium (the "Adjacent Property"). A portion of the Parcel and a portion of the Adjacent Property are subject to a Reciprocal Easement and Maintenance Agreement dated as of January 11, 1989, and recorded on January 13, 1989 at Recorder No. 89-017272, Official Records of Maricopa County, Arizona (the "REA"). Pursuant to the terms of the REA, that portion of the Parcel described on the Plat as the "parking easement area" is subject to an easement in favor of the Adjacent Property for parking. Additionally, as described on the Plat, a portion of the Adjacent Property is subject to a parking easement in favor of the Parcel. The Parking Rights, as defined in Section 1.2.29 hereof and the Parking Rights provided to the Parcel under the REA shall be subject to the terms and conditions of the REA and the Rules of the Association.

ARTICLE 4

USE AND OCCUPANCY RESTRICTIONS

4.1 **Use of Units.** All Units shall be used and occupied exclusively for commercial and professional office purposes. A Unit may only be used for a purpose conforming to all applicable zoning ordinances and requirements and shall not be used for any other purpose.

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 "Antenna" may be erected, used or maintained outdoors on any portion of the Condominium whether attached to the Building or otherwise, unless (i) previously approved in writing by the Board of Directors, or (ii) applicable law prohibits the Board of Directors from requiring such prior approval. Even if applicable law prohibits the Board of Directors from requiring prior approval of certain types of antennas, satellite dishes or other devices, any such antennas, satellite dishes or other devices must be installed or constructed in accordance with such rules and regulations as the Board of Directors may adopt. All Antennas shall be roof-mounted, screened from view and not exceed a single dish of 18 inches in diameter.

4.3 **Utility Service.** Except for lines, wires and devices existing on the Condominium as of the date of this Declaration and maintenance and replacement of the same, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon the Condominium unless they are installed and maintained underground or concealed in, under or on the Units or other structures permitted under this Declaration. No power generators are allowed in or on a Unit or in or on as a Limited Common Element, except on an emergency basis, and then only for the period of the emergency, which shall not exceed a maximum of five (5) days.

4.4 **Improvements and Alterations.**

4.4.1 Any Unit Owner may make nonstructural additions, alterations and improvements within his Unit without the prior written approval of the Board of Directors, but such Unit Owner shall be responsible for any damage to other Units 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 the City of Scottsdale (if required) 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 be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations or improvements.

4.4.2 Notwithstanding the foregoing, no addition, alteration or improvement within a Unit, whether structural or not, which would be visible from the exterior of the Building in which the Unit is located 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 all or any portion of the Common Elements, including, but not limited to, putting any improvements in Ceiling Area or the painting or decoration of the Ceiling Area without the prior written approval of the Board of Directors and the City of Scottsdale (if the approval of the City is so required). Except as expressly permitted by this Section, no Improvement situated within a Unit shall be constructed, installed or modified without the prior written approval of the Board of Directors and the City of Scottsdale (if the approval of the City is so required).

4.4.3 No Unit Owner shall overload the electric wiring in the Building, or operate machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board of Directors, an unreasonable disturbance to others or connect any machines, appliances, accessories or equipment to the heating or plumbing system, without the prior consent of the Board of Directors, acting in accord with the direction of the Board of Directors.

4.4.4 Prior to commencing construction of any addition, alteration or improvement to the Unit, whether structural or nonstructural, the Unit Owner shall deliver to the Board of Directors a certificate of insurance or other evidence acceptable to the Board of Directors establishing that the Unit Owner has in full force and effect comprehensive general liability insurance with respect to the Unit with a combined single limit of not less than \$2,000,000 and a blanket causes of loss - special form policy of property insurance with vandalism, malicious mischief and fire sprinkler damage endorsements insuring the Unit including all proposed additions, alterations or improvements in an amount equal to one hundred percent (100%) of the then current replacement cost of the Unit, and all Units directly adjacent through a common wall, all proposed additions, alterations and improvements and all fixtures, furniture and equipment located in the Unit.

4.4.5 The Board of Directors may condition the approval of any proposed additions, alterations or improvements to a Unit or the Common Elements in any manner, including, without limitation: (a) retaining approval rights of the contractor to perform the work; (b) restricting the time during which such work may be performed; (c) requiring the placement of a security deposit in an amount determined by the Board of Directors in an account controlled by the Board of Directors; and (d) requiring the provision to the Board of Directors of

plans and specifications prepared and sealed by a professional engineer duly licensed by the State of Arizona for the Board of Directors' review and approval. The Unit Owner shall be obligated to designate Declarant, the Association, the Board of Directors and any other Person designated by the Board of Directors as additional insureds under the policies. The Unit Owner shall be responsible for all costs incurred by the Board of Directors in connection with the Board of Director's review of the Unit Owner's proposed changes to such Unit Owner's Unit, including, without limitation, all costs of architects, engineers and other professionals which may be retained by the Board of Directors to assist in their review.

4.4.6 The proposed additions, alterations and improvements by any Unit Owner shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, may only be made once all required permits have been obtained and must be in compliance with any conditions imposed by the Association with respect to design, structural integrity, sound attenuation, water-proofing, construction details, lien protection or otherwise. A Unit Owner making or causing to be made such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Unit Owner, and such Unit Owner's heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, Declarant and all other Unit Owners harmless from and to indemnify them for, from and against any and all liability or damage to the Condominium and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance of such additions, alterations and improvements from and after their date of installation or construction as may be required by the Association.

4.4.7 The Association shall have the right to stop any work that is not in compliance with the terms contained in this Section 4.4 or any rules of the Association governing improvements by Unit Owners. The Association's rights of review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither Declarant, the Association nor any of the officers, directors, employees, agents, contractors, consultants or attorneys thereof shall be liable to any Unit Owner or any other Person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval of any plans or submissions. Anyone submitting plans under this Declaration, by the submission of same, and any Unit Owner, by acquiring title to same, agrees not to seek damages or equitable relief from Declarant and/or the Association arising out of the Association's review of any plans under this Declaration. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Further, each Unit Owner (including the successors and assigns) agrees to indemnify and hold Declarant and the Association harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review of plans by the Association.

4.5 Animals. No animals, birds, reptiles, fowl, poultry or livestock shall be maintained or kept in any Unit or on any other portion of the Condominium.

4.6 **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 in his Unit as may be necessary to prevent insects, rodents and other pests from being present in the Unit.

4.7 **Motor Vehicles.** Except for emergency repairs, no automobile, motorcycle, van, sport utility vehicle, truck, motorbike or other motor vehicle ("Vehicle") shall be constructed, reconstructed, serviced or repaired on any portion of the Condominium, and no Vehicle may be stored or parked on any portion of the Condominium for a continuous period in excess of 24 hours. No automobile, motorcycle, motorbike, van, sport utility vehicle, truck or other motor vehicle shall be parked upon any part of the Condominium, except in such parking spaces as may exist from time to time on the Common Elements. If a parking space is assigned to a Unit as a Limited Common Element, then no Unit Owner, Lessee or Occupant may park any automobile, motorcycle, motor bike or other motor vehicle owned or leased by such Unit Owner, Lessee or Occupant in any parking spaces other than the parking space assigned to the Unit as a Limited Common Element.

4.8 **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 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.

4.9 **Machinery and Equipment.** No machinery or equipment of any kind shall be placed, operated or maintained upon the Condominium except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of buildings, improvements or structures which are within the uses permitted by this Declaration, and except that which Declarant or the Association may require for the construction, operation and maintenance of the Common Elements.

4.10 **Trucks, Trailers, Campers and Boats.** No mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, jet ski, boat trailer, or other similar equipment, trailer or vehicle may be parked, kept, maintained, constructed, reconstructed or repaired on any part of the Condominium.

4.11 **Towing of Vehicles.** The Board of Directors shall have the right to have any automobile, sport utility vehicle, van, truck, recreational vehicle, motorcycle, motorbike, 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. Any expense incurred by the Association in connection with the towing of any vehicle shall be paid to the Association upon demand by the owner of the vehicle.

4.12 **Signs.** No signs (including, but not limited to, "For Sale" or "For Rent" signs) shall be permitted on the exterior of any Building or in the interior of a Unit if the sign would be visible from the exterior of the Building in which the Unit is located, or on any other

portion of the Condominium without the prior written approval of the Board of Directors and approval from the City of Scottsdale, if required. All Unit Owner identification signs located on the Common Elements shall adhere to the sign policies of the Board of Directors, as determined from time to time.

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

4.14 Nuisances and Offensive Activity. No nuisance shall be permitted to exist or operate upon the Condominium, and no activity shall be conducted upon the Condominium which is offensive or detrimental to any portion of the Condominium or any Unit Owner, Lessee or Occupants or is an annoyance to any Unit Owner, Lessee or Occupant or which interferes with quiet enjoyment of a Unit by the Unit Owner or Occupants. Except as part of a security system, no exterior speakers, horns, whistles, bells or other sound devices shall be located, used or placed on the Condominium without the prior written approval of the Board of Directors.

4.15 Window Coverings. No reflective materials, including, but not 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 or screens or other item affecting the exterior appearance of a Unit shall be constructed or installed without the prior written consent of the Board of Directors.

4.16 Rental of Units. Any lease for a Unit must be in writing and must provide that the terms of the lease are subject in all respects to the provisions of this Declaration and the Rules and that any violation of this Declaration or the Rules by the Lessee or the other occupants shall be a default under the lease. At least ten (10) days before commencement of the lease term, the Unit Owner shall provide the Association with the following information: (1) the commencement date and expiration date of the lease term; (2) the names of each of the Lessee(s) and each other person who will reside in the Unit during the lease term; (3) the address and telephone number at which the Unit Owner can be contacted by the Association during the lease term; and (4) the name, address and telephone number of a person whom the Association can contact in the event of an emergency involving the Unit. Any Unit Owner who leases his Unit must provide the Lessee with copies of this Declaration and the Rules and shall concurrently pay to the Association a fee of \$250.00 for administrative costs of the Association in conjunction with the leasing of the Unit. The Unit Owner shall be liable for any violation of this Declaration or the Rules by the Lessees or other persons residing in the Unit and their guests or invitees and, in the event of any such violation, the Unit Owner, upon demand of the Association shall immediately take all necessary actions to correct any such violations. Unit Owner shall be liable for all costs hereunder as primary party regardless of terms of lease or approval of lease by the Association.

4.17 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

MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.1 Duties of the Association. The Association shall maintain, repair and replace all Common Elements, except for the Limited Common Elements which the Unit Owners are obligated to maintain, repair and replace pursuant to Section 5.2. The cost of all such maintenance, repairs and replacements shall be a Common Expense and shall be paid for by the Association. The Board of Directors shall be the sole judge as to the appropriate maintenance, repair and replacement of all Common Elements, but all Common Elements shall be maintained in good condition and repair at all times. No Owner, Lessee, Occupant or other Person shall construct or install any Improvements on the Common Elements or alter, modify or remove any Common Elements without the prior written approval of the Board of Directors. No Owner, Lessee, Occupant or other Person shall obstruct or interfere with the Association in the performance of the Association's maintenance, repair and replacement of the Common Elements.

5.2 Duties of Unit Owners. Each Unit Owner shall maintain, repair and replace, at his own expense, all portions of his Unit in a good, clean and sanitary condition. In addition, each Unit Owner shall be responsible for the maintenance and repair of the Limited Common Elements allocated to his Unit pursuant to Subsections 2.8.1(a) and (b) in a good, clean and sanitary condition.

5.3 Repair or Restoration Necessitated by Owner. Each Unit Owner shall be liable to the Association for any damage to the Common Elements or the Improvements, landscaping or equipment thereon which results from the negligence or willful misconduct of the Unit Owner or of the Unit Owner's Invitees. The cost to the Association of any such repair, maintenance or replacements required by such act of a Unit Owner or of the Unit Owner's Invitees shall be assessed against the Unit Owner pursuant to Subsection 7.2.4.

5.4 Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair his Unit or any Limited Common Element which he 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 nonperforming Unit Owner pursuant to Subsection 7.2.4.

ARTICLE 6

THE ASSOCIATION

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 a 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 affirmative vote of Unit Owners holding more than two-thirds (2/3) of the votes in the Association. Unless the Condominium Documents or the Condominium Act specifically require a vote of the Members, the Board of Directors may act in all instances on behalf of the Association.

6.2 Directors and Officers.

6.2.1 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 who do not have to be Unit Owners. 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. The Board of Directors elected by the Unit Owners shall then elect the officers of the Association.

6.2.2 The Declarant may voluntarily surrender the 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 the Units and the Common Elements.

6.4 Identity 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. Membership in the Association shall be mandatory. A Unit Owner shall automatically, upon becoming a Unit Owner, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to each Unit and may not be separately assigned, transferred or conveyed.

6.5 Personal Liability. No director or officer of the Association, no member of any committee of the Association, and no other person acting on behalf of the Board of Directors shall be personally liable to any Member, or to any other Person for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence in the discharge of such person's duties and responsibilities under the Condominium Documents provided such person acted in good faith and without intentional misconduct.

6.6 Utility Service and Refuse Collection. The Association shall acquire and pay for the following: (a) water, sewer, electrical, and other utility service for the Common Elements; (b) refuse and rubbish collection for the Common Elements and the Units; and (c) natural gas and water and sewer service for the Units. The Units shall be separately

metered for electrical service and each Unit Owner shall pay for all electrical service to his Unit. The Rules may contain provisions governing the disposal of refuse and rubbish in the Condominium and may require all refuse and trash to be placed in containers located on the Common Elements.

ARTICLE 7

ASSESSMENTS

7.1 Preparation of Budget.

7.1.1 At least thirty (30) 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: (a) 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; (b) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (c) the amount required to render to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; and (d) 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 7.2.4 or 7.2.5 or Section 7.4.

7.1.2 At least ten (10) days before the beginning of each fiscal year of the Association (except for the first fiscal year), 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. 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 his allocable share of the Common Expenses as provided in Section 7.2, and each Unit Owner shall continue to pay the Common Expense Assessment against his Unit as established for the previous fiscal year until notice of the Common Expense Assessment for the new fiscal year has been given to the Unit Owners by the Board of Directors.

7.1.3 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.

7.2.1 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 7.2.4 and 7.2.5 or Section 7. shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in Section 2.2. The amount of the Common Expense Assessment assessed pursuant to this Subsection 7.2.1 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, nonpayment of Assessments by Members, the Board of Directors 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.

7.2.2 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. 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 Director may require that the Common Expense Assessments or Special Assessments be paid in monthly installments.

7.2.3 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 7.2.1.

7.2.4 If any Common Expense is caused by the misconduct of any Unit Owner, the Association shall assess that Common Expense exclusively against his Unit.

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

7.2.6 The Common Expense Assessment for any Unit on which construction has not been substantially completed shall be an amount equal to twenty-five percent (25%) of the Common Expense Assessment for Units which have been substantially completed. For purposes of this Subsection, a Unit shall be deemed substantially completed when all interior Unit improvements have been completed and a Certificate of Occupancy has been issued for the Unit by the City of Scottsdale. So long as any Unit owned by the Declarant qualifies for the reduced Common Expense Assessment provided for in this Subsection, the Declarant shall be obligated to pay to the Association any deficiency in the monies of the Association due to the Declarant having paid a reduced Common Expense Assessment and necessary for the Association to be able to timely pay all Common Expenses.

7.2.7 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 his Unit shall not pass to the Unit Owner's successors in title unless expressly assumed by them. No transfer of Unit Owner's rights shall be recorded in the Association records until all Assessments and fines are paid.

7.3 Special Assessments. In addition to Common Expense Assessments, the Association may levy a special assessment 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 (other than a Special Assessment levied pursuant to Section 9.1 as a result of the damage or destruction of all or part of the Common Elements) shall have first been approved by Unit Owners representing two-thirds (2/3) of the votes in the Association who are 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 Enforcement Assessment. The Association may assess against a Unit Owner as an Enforcement Assessment any of the following expenses: (a) any Collection Costs incurred by the Association in attempting to collect Assessments or other amounts payable to the Association by the Unit Owner; (b) any attorney fees (whether or not a lawsuit is filed) incurred by the Association with respect to any violation of the Condominium Documents by the Unit Owner or the Unit Owner's Lessees or Invitees; (c) any monetary penalties levied against the Unit Owner; or (d) any amounts (other than Common Expense Assessments and Special Assessments) which become due and payable to the Association by the Unit Owner or the Unit Owner's Lessees or Invitees pursuant to the Condominium Documents.

7.5 Effect of Nonpayment of Assessments; Remedies of the Association.

7.5.1 Any Assessment, or any installment of an Assessment, which is not paid within fifteen (15) 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. If any Assessment, or any installment thereof, is not paid within fifteen (15) days after the Assessment first became due, the Association may assess against the delinquent Unit Owner a late fee in the amount established from time to time by the Board of Directors.

7.5.2 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.

7.5.3 The Assessment Lien shall have priority over all liens or claims except for: (a) tax liens for real property taxes; (b) assessments in favor of any municipal or other

governmental body; and (c) the lien of any First Mortgage. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid assessments and charges against the Unit which became payable prior to the acquisition of such Unit by the First Mortgagee or other Person. Any assessments and charges against the Unit which accrue prior to such sale or transfer shall remain the obligation of the defaulting Unit Owner.

7.5.4 The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien fees, fines, reasonable attorneys' fees, court costs, collection costs and all other sums payable to the Association by the Unit Owner of the Unit have been paid in full.

7.5.5 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: (a) 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 (b) bringing an action to foreclose the 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.

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 nonuse of any of the Common Elements and facilities or by the abandonment of his Unit.

7.7 **Certificate of Payment.** The Association on written request shall furnish to a lienholder, Unit Owner or other person designated by a Unit Owner, a recordable statement setting forth the amount of unpaid Assessments against his Unit. The statement shall be furnished within fifteen (15) 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 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 **Initial Working Capital Fund.** To provide the Association with initial operating funds, each Purchaser of a Unit from the Declarant shall pay to the Association, immediately upon becoming the Unit Owner of the Unit, a sum equal to two monthly installments of the Common Expense Assessment for the Unit. Such amount shall be non refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

7.10 Surplus Funds. Surplus funds of the Association remaining after payment of the Common Expenses and any prepayment of reserves in any year 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.

7.11 Transfer Fee. Each Purchaser of a Unit shall pay to the Association immediately upon becoming the Owner of the Unit a transfer fee in the amount set from time to time by the Board of Directors to compensate the Association for the administrative cost resulting from the transfer of a Unit.

7.12 Reserves. During the Period of Declarant Control, the Assessments shall not include any amounts to be allocated to reserves for the future periodic maintenance, repair and replacement of the Common Elements, and the Board of Directors will not be obligated to establish any such reserves. All Unit Owners agree that neither the Board of Directors nor the Declarant shall be liable in any manner whatsoever for failing to establish or fund reserves during the Period of Declarant Control. After the termination of the Period of Declarant Control, the budget adopted by the Board of Directors shall include reasonable amounts as determined by the Board of Directors collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Elements, or any other purpose as determined by the Board of Directors. All amounts collected as reserves shall be deposited by the Board of Directors in a separate bank account (the "Reserve Account") to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members. The Board of Directors shall not expend funds designated as reserve funds for any purpose other than those purposes for which they were collected. Withdrawal of funds from the Association's Reserve Account shall require the signatures of either (a) two (2) members of the Board of Directors; or (b) one (1) member of the Board of Directors and an officer of the Association who is not also a member of the Board of Directors. After the termination of the Period of Declarant Control, the Board of Directors shall obtain a reserve study at least once every three years, which study shall at a minimum include (a) identification of the major components of the Common Elements which the Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of less than thirty (30) years; (b) identification of the probable remaining useful life of the identified major components as of the date of the study; (c) an estimate of the cost of repair, replacement, restoration, or maintenance of the identified major components during and at the end of their useful life; (d) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the identified major components during and at the end of their useful life, after subtracting total reserve funds as of the date of the study. The Board of Directors shall modify the budget in accordance with the findings of the reserve study.

ARTICLE 8

INSURANCE

8.1 Scope of Coverage.

8.1.1 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:

(a) A blanket causes of loss - special form policy of property insurance with sprinkler leakage, debris removal and water damage endorsements, insuring the entire Condominium, except for: (i) wall coverings, floor coverings, paint and paneling; (ii) additions, alterations and improvements supplied or installed by the Unit Owners; and (iii) furniture, furnishings or other personal property of the Unit Owners. Such property insurance shall cover the interests of the Association, the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear (subject, however, to the loss payment adjustment provisions in favor of the Insurance Trustee), in an amount equal to one hundred percent (100%) of the then current replacement cost of the Condominium (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation. The replacement cost shall be reviewed annually by the Board of Directors with the assistance of the insurance company affording such coverage. The Board of Directors shall also obtain and maintain such coverage on all personal property owned by the Association.

(b) Broad form comprehensive general liability insurance, for a limit to be determined by the Board, but not less than \$1,000,000 for any single occurrence with an aggregate of \$2,000,000. 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 nonowned automobiles, (iii) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party, and (iv) a waiver of the contractual liability exclusion for personal injury.

(c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona and a policy of employer's liability insurance with coverage limits determined by the Board of Directors.

(d) Directors' and officers' liability insurance in an amount not less than \$1,000,000 covering all the directors and officers of the Association in such limits as the Board of Directors may determine from time to time.

(e) 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.

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

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

(ii) There shall be no subrogation with respect to the Association, its agents, servants, and employees against Unit Owners.

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

(iv) 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.

(v) 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.

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

(vii) For policies of property 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.

(g) If applicable, pressured, mechanical and electrical equipment coverage on a comprehensive form in an amount not less than \$500,000 per accident per location.

8.1.2 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.

8.1.3 The Board of Directors may select deductibles applicable to the insurance coverage to be maintained by the Association pursuant to this Section 8.1 in order to reduce the premiums payable for such insurance. The deductible, if any, on any insurance policy obtained by the Association shall be a Common Expense, but the Association may assess to a Unit Owner any deductible amount necessitated by the specialized use (i.e. a physician's or dentist's use of a Unit) of a Unit or by the negligence, misuse or neglect for which such Unit Owner is responsible.

8.1.4 Notwithstanding any of the other provisions of this Article to the contrary, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any

Insurance Trust Agreement or any successor to such trustee who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. Each Unit Owner appoints the Association, or any insurance trustee or substitute insurance trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: (a) the collection and appropriate disposition of the proceeds thereof; (b) the negotiation of losses and execution of releases of liability; (c) the execution of all documents; and (d) the performance of all other acts necessary to accomplish such purpose.

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. Each Unit Owner shall be responsible for: (a) physical damage insurance on the personal property in his Unit and elsewhere on the Condominium, and any additions, alterations and improvements to his Unit (whether installed by such Unit Owner or any prior Unit Owner or whether originally in his Unit); and (b) his personal liability to the extent not covered by the policies of liability insurance obtained by the Board of Directors for the benefit of all of the Unit Owners. All policies of casualty insurance carried by each Unit Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Board of Directors for the benefit of all of the Unit Owners. For the purposes of this Section 8.3, "additions, alterations and improvements" shall mean any property (excluding personal property readily removable without damage to the Unit) attached to the Unit, including without limitation, carpeting, flooring, wall covering, paint and paneling.

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 lienholder its 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 the Association and, on written request, to any Unit Owner, mortgagee, or beneficiary and under a deed of trust. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal 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.

8.6 Annual Insurance Review. The Board of Directors shall determine annually whether the amounts and types of insurance it has obtained provide adequate coverage in light of increased construction costs, inflation, practice in the area in which the Condominium is located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Owners and of the Association.

ARTICLE 9

DESTRUCTION OF IMPROVEMENTS

9.1 **Automatic Reconstruction.** Any portion of the Condominium for which insurance is maintained by the Association which is damaged or destroyed shall be repaired or replaced promptly by the Association unless: (a) the Condominium is terminated; (b) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (c) eighty percent (80%) of the Unit Owners, including every Owner of a Unit or allocated Limited Common Element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement of the damaged or destroyed portion of the Condominium in excess of insurance proceeds and reserves shall be a Common Expense and shall be assessed to the Members as a Special Assessment pursuant to Section 7.3.

9.2 **Determination Not to Reconstruct Without Termination.** If eighty percent (80%) of the Unit Owners (including every Owner of a Unit or an allocated Limited Common Element which will not be rebuilt) vote not to rebuild, and the Condominium is not terminated in accordance with the Act, the insurance proceeds shall be distributed in proportion to their interests in the Common Elements to the Owners of those Units and the Owners to which those Limited Common Elements were allocated, or to lienholders as their interests may appear. The remainder of the proceeds shall be distributed to all Unit Owners or lienholders as their interests may appear in proportion to Common Element interests of all the Units. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be automatically reallocated as if the Unit had been condemned under A.R.S. § 33-1206.A, and the Association shall prepare, execute and record an amendment to this Declaration reflecting the reallocation.

9.3 **Distribution of Insurance Proceeds in the Event of Termination of the Condominium.** Notwithstanding any provisions of this Article 9 to the contrary, the distribution of insurance proceeds resulting from the damage or destruction of all or any part of the Common Elements shall be distributed as provided in the Act in the event of a termination of the Condominium.

9.4 **Negotiations with Insurer.** The Association shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed Building or any other portion of the Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such Building or any other portion of the Common Elements. Any settlement made by the Association in good faith shall be binding upon all Owners and First Mortgagees. Insurance proceeds for any damage or destruction of any part of the Condominium covered by property insurance maintained by the Association shall be paid to the Association and not to any First Mortgagee or other lienholder. The Association shall hold any proceeds in trust for the Unit Owners and lienholders as their interests may appear. Except as otherwise provided in Sections 9.1 and 9.2, all insurance proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged or destroyed Common Elements have been completely repaired or restored or the Condominium is terminated.

9.5 **Repair of Units.** Installation of improvements to, and repair of any damage to, the interior of a Unit not covered by property insurance maintained by the Association shall be made by and at the individual expense of the Owner of that Unit and shall be completed as promptly as practicable and in a lawful and workmanlike manner.

9.6 **Priority.** Nothing contained in this Article shall entitle an Owner to priority over any lender under a lien encumbering his Unit as to any portion of insurance proceeds allocated to such Unit.

ARTICLE 10

EMINENT DOMAIN

10.1 **Total Taking of a Unit.** If a Unit is acquired by eminent domain, or if part of a Unit is acquired by eminent domain leaving the Owner with a remnant which may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Owner for his Unit and interest in the Common Elements, regardless of whether any Common Elements are taken. Upon such a taking, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall automatically be reallocated to the remaining Units in proportion to their respective allocated interests immediately before the taking. Upon such a taking, the Association shall prepare, execute and record an amendment to the Declaration in compliance with the Act. Any remnant of a Unit remaining after part of a Unit is taken becomes a Common Element.

10.2 **Partial Taking of a Unit.** Except as provided in Section 10.1, if part of a Unit is acquired by eminent domain, the award must compensate the Owner for the reduction in the value of his Unit and interest in the Common Elements, regardless of whether any Common Elements are taken. On acquisition, unless the decree otherwise provides, that Unit's allocated interests in the Common Elements and in the Common Expenses shall be reduced in proportion to the reduction in size of the Unit and the portion of the allocated interests divested from the partially acquired Unit shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced interest.

10.3 **Taking of Common Elements.** If part of the Common Elements is acquired by eminent domain, the portion of the award attributable to the Common Elements taken shall be paid to the Association for the benefit of the Unit Owners, and any portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the Owners of the Units to which that Limited Common Element was allocated at the time of the acquisition.

10.4 **Taking of Entire Condominium.** In the event the Condominium in its entirety is acquired by eminent domain, the Condominium shall be terminated and the provisions of A.R.S. § 33-1228 apply.

10.5 **Priority and Power of Attorney.** Nothing contained in this Article shall entitle an Owner to priority over any First Mortgagee under a lien encumbering his Unit as to any portion of any condemnation award allocated to such Unit. Each Owner hereby appoints the

Association as attorney-in-fact for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common elements, or any part thereof. This power of attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns or an Owner.

ARTICLE 11

DISPUTE RESOLUTION

11.1 Agreement to Resolve Certain Disputes Without Litigation. As used in this Article 11, the term "Claim" shall mean: (a) any claim or cause of action arising out of or related in any way to the planning, design, engineering, grading, construction or development of the Common Elements, the Units or any other part of the Condominium, including, without limitation, any claim or cause of action that the Common Elements or the Units are defective or that the Declarant, its agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof; or (b) any claim or cause of action against the Declarant or any employee, agent, director, member or officer of Declarant arising out of or in any way related to the development of the Condominium or the management or operation of the Association, including, without limitation, any claim for negligence, fraud, intentional misconduct or breach of fiduciary duty. The Association, the Declarant, all Unit Owners, Lessees, Occupants and other Persons bound by this Declaration, and any Person not otherwise bound by this Declaration who agrees to submit to this Article 11 (collectively, the "Bound Parties") agree that the dispute resolution procedures set forth in this Article 11 shall apply to all Claims.

11.2 Notice of Claim. Any Bound Party who contends or alleges to have a Claim (a "Claimant") against any other Bound Party (a "Respondent") shall notify each Respondent in writing of the Claim (the "Claim Notice"), stating plainly and concisely: (a) the nature of Claim, including, date, time, location, Persons involved, and Respondent's role in the Claim; (b) the factual and legal basis of the Claim; and (c) what Claimant wants Respondent to do or not do to resolve the Claim. In the event the Claimant is the Association, the Association must provide written notice to all Members prior to delivering a Claim Notice to a Bound Party or initiating any legal action, cause of action, proceeding, or arbitration against any Bound Party which notice shall (at a minimum) include: (a) a description of the Claim; (b) a description of the attempts of Declarant or any other Bound Party to correct such Alleged Defect and the opportunities provided to Declarant or any other Bound Party to correct such Alleged Defect; (c) a certification from an engineer licensed in the State of Arizona that such Alleged Defect exists along with a description of the scope of work necessary to cure such Alleged Defect and a resume of such engineer; (d) the estimated cost to repair such Alleged Defect; (e) the name and professional background of the attorney retained by the Association to pursue the Claim and a description of the relationship between such attorney and member(s) of the Board of Directors (if any); (f) a description of the fee arrangement between such attorney and the Association; (g) the estimated attorneys' fees and expert fees and costs necessary to pursue the Claim and the source of the funds which will be used to pay such fees and expenses; (h) the estimated time necessary to conclude the action; and (i) an affirmative statement from the Board of Directors that the action is in the best interests of the Association and its Members.

11.3 Mediation. The Claimant and the Respondent shall negotiate in good faith in an attempt to resolve the Claim. If the Parties do not resolve the Claim through negotiation within thirty (30) days after the date of the Claim Notice or within such longer period as may be mutually agreed upon by the Parties ("Termination of Negotiations"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation under the auspices of an independent mediation service designated by the Declarant. If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation Notice"). The Termination of Mediation Notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

11.4 Binding Arbitration. In the event a Claim is not resolved by mediation, the Claimant shall have fifteen (15) days after the date of the Termination of Mediation Notice to submit the Claim to binding arbitration in accordance with this Section 11.4. If the Claimant fails to timely submit the Claim to arbitration, then the Claim shall be deemed waived and abandoned and the Respondent shall be relieved of any and all liability to Claimant arising out of the Claim. The parties shall cooperate in good faith to assure that all necessary and appropriate persons and entities are included in the arbitration proceedings. No party shall be required to participate in the arbitration proceeding if all persons and entities against whom the party would have necessary or permissive crossclaims, counterclaims or third party claims are not or cannot be joined in the arbitration proceeding. If the Claimant submits the Claim to binding arbitration in accordance with this Section 11.4, the arbitration shall be conducted in accordance with the following rules:

(a) **Initiation of Arbitration.** The arbitration shall be initiated by either party delivering to the other a Notice of Intention to Arbitrate as provided for in the American Arbitration Association ("AAA") Commercial Arbitration Rules, as amended from time to time (the "AAA Rules").

(b) **Governing Procedures.** The arbitration shall be conducted in accordance with the AAA Rules and A.R.S. § 12-1501, et seq. In the event of a conflict between the AAA Rules and this Section 11.4, the provisions of this Section 11.4 shall govern.

(c) **Appointment of Arbitrator.** The parties shall appoint a single Arbitrator by mutual agreement. If the parties have not agreed within ten (10) days of the date of the Notice of Intention to Arbitrate on the selection of an arbitrator willing to serve, the AAA shall appoint a qualified Arbitrator to serve. Any arbitrator chosen in accordance with this Subsection (c) is referred to in this Section 11.4 as the "Arbitrator."

(d) **Qualifications of Arbitrator.** The Arbitrator shall be neutral and impartial. The Arbitrator shall be fully active in such Arbitrator's occupation or profession, knowledgeable as to the subject matter involved in the dispute, and experienced in

arbitration proceedings. The foregoing shall not preclude otherwise qualified retired lawyers or judges from acting as the Arbitrator.

(e) **Disclosure**. Any candidate for the role of Arbitrator shall promptly disclose to the parties all actual or perceived conflicts of interest involving the dispute or the parties. No Arbitrator may serve if such person has a conflict of interest involving the subject matter of the dispute or the parties. If an Arbitrator resigns or becomes unwilling to continue to serve as an Arbitrator, a replacement shall be selected in accordance with the procedure set forth in Subsection 11.4.(c).

(f) **Compensation**. The Arbitrator shall be fully compensated for all time spent in connection with the arbitration proceedings in accordance with the Arbitrator's usual hourly rate unless otherwise agreed to by the parties, for all time spent by the Arbitrator in connection with the arbitration proceeding. Pending the final award, the Arbitrator's compensation and expenses shall be advanced equally by the parties.

(g) **Preliminary Hearing**. Within thirty (30) days after the Arbitrator has been appointed, a preliminary hearing among the Arbitrator and counsel for the parties shall be held for the purpose of developing a plan for the management of the arbitration, which shall then be memorialized in an appropriate order. The matters which may be addressed include, in addition to those set forth in the AAA Rules, the following: (i) definition of issues; (ii) scope, timing and types of discovery, if any; (iii) schedule and place(s) of hearings; (iv) setting of other timetables; (v) submission of motions and briefs; (vi) whether and to what extent expert testimony will be required, whether the Arbitrator should engage one or more neutral experts, and whether, if this is done, engagement of experts by the parties can be obviated or minimized; (vii) whether and to what extent the direct testimony of witnesses will be received by affidavit or written witness statement; and (viii) any other matters which may promote the efficient, expeditious, and cost-effective conduct of the proceeding.

(h) **Management of the Arbitration**. The Arbitrator shall actively manage the proceedings as the Arbitrator deems best so as to make the proceedings expeditious, economical and less burdensome than litigation.

(i) **Confidentiality**. All papers, documents, briefs, written communication, testimony and transcripts as well as any and all arbitration decisions shall be confidential and not disclosed to anyone other than the Arbitrator, the parties or the parties' attorneys and expert witnesses (where applicable to their testimony), except that upon prior written consent of all parties, such information may be divulged to additional third parties. All third parties shall agree in writing to keep such information confidential.

(j) **Hearings**. Hearings may be held at any place within the City of Scottsdale designated by the Arbitrator and, in the case of particular witnesses not subject to subpoena at the usual hearing site, at a place where such witnesses can be compelled to attend.

(k) **Final Award**. The Arbitrator shall promptly (but, in no event later than sixty (60) days following the conclusion of the proceedings or such longer period as the parties mutually agree) determine the claims of the parties and render a final award in writing. The Arbitrator may award the prevailing party in the proceeding all or a part of such

party's reasonable attorneys' fees and expert witness fees, taking into account the final result of arbitration, the conduct of the parties and their counsel in the course of the arbitration, and other relevant factors. The Arbitrator shall not award any punitive damages. The Arbitrator shall not award indirect, consequential or special damages regardless of whether the possibility of such damage or loss was disclosed to, or reasonably foreseen by the party against whom the claim is made. The Arbitrator shall assess the costs of the proceedings (including, without limitation, the fees of the Arbitrator), against the non-prevailing party, or on a split basis if the Arbitrator selects a position between those of the disputing parties, as the Arbitrator may determine appropriate.

11.5 Right to Enter, Inspect, Repair and/or Replace. Following the receipt by a Bound Party of a Claim Notice with respect to an alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Common Elements or any Unit (the "Alleged Defect"), the Bound Party and its employees, agents, contractors and consultants shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into as applicable, the Common Elements and any Unit for the purposes of inspecting and/or conducting testing including destructive testing if required (although the damage shall be repaired upon completion of the testing by the Bound Party, to determine the validity of the Claim and, if deemed necessary by the Bound Party, to correct, repair and/or replace the Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, the Bound Party shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances. Nothing set forth in this Section 11.5 shall be construed to impose any obligation on any Bound Party to inspect, test, repair, or replace any item or Alleged Defect for which the Bound Party is not otherwise obligated under applicable law or any warranty provided by Declarant or any other Bound Party in connection with the sale of the Units. The right of a Bound Party and its employees, agents, contractors and consultants 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 the Bound Party. In no event shall any statutes of limitations be tolled during the period in which a Bound Party conducts any inspection, testing, repair or replacement of any Alleged Defects.

11.6 Use of Funds. Any judgment, award or settlement received by a Claimant in connection with a Claim involving an Alleged Defect shall first be used to correct and or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. Any excess funds remaining after repair of such Alleged Defect shall be paid into the Association's reserve fund.

11.7 Approval of Litigation. The Association shall not deliver a Claim Notice to any Bound Party or commence any legal action or arbitration proceeding or incur legal expenses, including without limitation, attorneys' fees, in connection with any Claim without the written approval of Unit Owners entitled to cast more than seventy-five percent (75%) of the total votes in the Association, excluding the votes of any Unit Owner who would be a defendant in such proceedings. The Association must pay for any such legal action or mediation or arbitration proceeding with monies that are specifically collected for such purposes and may not borrow money or use reserve funds or other monies collected for specific Association obligations other than legal fees. In the event that the Association commences any legal action or arbitration proceeding involving a Claim, all Unit Owners must notify prospective purchasers of their Unit

of such legal action or arbitration proceeding and must provide such prospective purchasers with a copy of the notice received from the Association in accordance with Section 11.6.

11.8 Statute of Limitations. All statutes of limitations applicable to Claims shall apply to the commencement of arbitration proceedings under Section 11.4. If the arbitration proceedings are not initiated within the time period provided by Arizona law for the filing of a legal action with respect to the Claim, the Claim shall forever be barred.

11.9 Conflicts. In the event of any conflict between this Article 11 and any other provision of the Condominium Documents, this Article 11 shall control.

BY ACCEPTANCE OF A DEED OR BY ACQUIRING A UNIT, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY CLAIM RESOLVED ACCORDING TO THE PROVISIONS OF THIS ARTICLE 11 AND WAIVES THE RIGHT TO PURSUE ANY DECLARANT OR OTHER BOUND PARTY IN ANY MANNER OTHER THAN AS PROVIDED IN ARTICLE 11. THE ASSOCIATION, EACH UNIT OWNER AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL CLAIMS AS PROVIDED IN THIS ARTICLE 11, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH CLAIM 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 CLAIM. BY ACCEPTANCE OF A DEED OR BY ACQUIRING A UNIT, EACH UNIT OWNER VOLUNTARILY ACKNOWLEDGES 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 CLAIM.

ARTICLE 12

GENERAL PROVISIONS

12.1 Enforcement. The Association may enforce the Condominium Documents in any manner provided for in the Condominium Documents or by law or in equity, including, but not limited to:

- (a) imposing reasonable monetary penalties after notice and an opportunity to be heard is given to the Unit Owner or other violator. A Unit Owner shall be responsible for payment of any fine levied or imposed against a Lessee or Occupant of the Unit Owner's Unit or by any Invitee of the Unit Owner or any Lessee or Occupant;
- (b) suspending a Unit Owner's right to vote;
- (c) suspending any Person's right to use any facilities within the Common Elements; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(d) suspending any services provided by the Association to a Unit Owner or the Unit Owner's Unit if the Unit Owner is more than fifteen (15) days delinquent in paying any assessment or other charge owed to the Association;

(e) exercising self-help of taking action to abate any violation of the Condominium Documents in a non-emergency situation;

(f) requiring a Unit Owner, at the Unit Owner's expense, to remove any structure or Improvement on such Owner's Unit in violation of this Declaration and to restore the Unit to its previous condition and, upon failure of the Unit Owner to do so, the Board of Directors or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) without liability to any person, prohibiting any contractor, subcontractor, agent, employee or other invitee of a Unit Owner who fails to comply with the terms and provisions of the Condominium Documents from continuing or performing any further activities of the Condominium;

(h) towing vehicles which are parked in violation of this Declaration or the Rules; and

(i) filing a suit at law or in equity to enjoin a violation of the Condominium Documents, to compel compliance with the Condominium Documents, to recover monetary penalties or money damages or to obtain such other relief as to which the Association may be entitled;

(j) recording 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) statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) 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.

The Association shall not be obligated to take any enforcement action if the Board of Directors determines, in its sole discretion, that because of the strength of the Association's possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other facts deemed relevant by the Board of Directors, enforcement action would not be appropriate or in the best interests of the Association.

Any Unit Owner may enforce the Condominium Documents in any manner provided for in this Declaration or at law or in equity, except that a Unit Owner may not exercise any remedy provided to the Association by this Declaration or enforce payment of any

assessments or other amounts payable to the Association pursuant to the Condominium Documents.

All rights and remedies of the Association under the Condominium Documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. The failure of the Association or a Unit Owner to take enforcement action with respect to a violation of the Condominium Documents shall not constitute or be deemed a waiver of the right of the Association or any Unit Owner to enforce the Condominium Documents in the future. If any lawsuit is filed by the Association or any Unit Owner to enforce the provisions of the Condominium Documents or in any other manner arising out of the Condominium Documents or the operations of the Association, the prevailing party in such action shall be entitled to recover from the other party all attorneys' fees incurred by the prevailing party in the action.

12.2 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.

12.3 Duration. The covenants and restrictions of this Declaration, as amended from time to time, shall run with and bind the Condominium in perpetuity unless the Condominium is terminated as provided in Section 12.4.

12.4 Termination of Condominium. The Condominium may be terminated only in the manner provided for in the Condominium Act.

12.5 Amendment.

12.5.1 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, may be 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.

12.5.2 Except to the extent expressly permitted or required by the Condominium Act, an amendment to the Declaration shall not (a) create or increase Special Declarant Rights, (b) 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, or (c) amend Article 11, this Subsection 12.5.2 or Subsection 12.5.4, in the absence of unanimous consent of the Unit Owners.

12.5.3 An amendment to the Declaration shall not terminate or decrease any unexpired Development Right, Special Declarant Right. In addition, any amendment to Article 11, Subsection 12.5.2 or this Subsection 12.5.3 must be approved in writing by the Declarant even if the Declarant no longer owns any Unit at the time of the Amendment.

12.5.4 During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to: (a) comply with the Condominium Act or any other applicable law if the amendment does not adversely affect the rights of any Unit Owner; (b) correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner; or (c) 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, including without limitation, the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

12.5.5 Any amendment adopted by the Unit Owners pursuant to Subsection 12.5.1 shall be signed by the President or Vice President of the Association and shall be Recorded. 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 12.5.4 or the Condominium Act shall be executed by the Declarant and shall be Recorded.

12.6 Notices. All notices, demands, statements or other communications required 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 his address on file with the Association for receipt of notices by delivering a written notice of change of address to the Association pursuant to 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 his correct mailing address with the Association, and shall promptly notify the Association in writing of any subsequent change of address.

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

12.8 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. Unless otherwise specified, all references in this Declaration to Articles of Sections refer to Articles and Sections of this Declaration.

12.9 Survival of Liability. The termination of membership in the Association shall not relieve or release any such former Owner or Member from any liability or obligation incurred under, or in any way connected with, the Association during the period of such ownership or membership, or impair any rights or remedies which the Association may have against such former Owner or Member arising out of, or in any way connected with, such ownership or membership and the covenants and obligations incident thereto.

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

12.11 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.

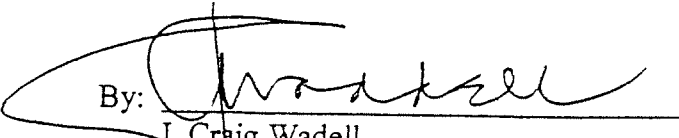
12.12 Guests and Tenants. Each Unit Owner shall be responsible for compliance by his agents, tenants, guests, invitees, licensees and their respective servants, agents, and employees with the provisions of the Condominium Documents. A Unit Owners' failure to insure compliance by such Persons shall be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

12.13 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 noncompliance with the condominium documents, the prevailing party in any such action shall be entitled to recover from the other party his reasonable attorneys' fees incurred in the action.

12.14 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.

12.15 Declarant's Right to Use Similar Name. The Association hereby irrevocably consents to the use by any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission in order for any other nonprofit corporation formed or incorporated by the Declarant to use a corporate name which is the same or deceptively similar to the name of the Association.

Sydney OPC Development, L.L.C., an
Arizona limited liability company

By: 
J. Craig Wadell
Its Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 4 day of February, 2003 by J. Craig Waddell, the Manager of Sydney OPC Developments, L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

Debi L. Greenway
Notary Public

My Commission Expires:
7/31/04

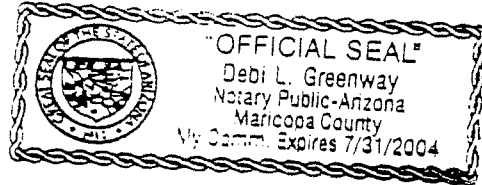


EXHIBIT "A"

ODYSSEY PROFESSIONAL CENTER
LEGAL DESCRIPTION

THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT A POINT LYING NORTH 00 DEGREES 01 MINUTES 46 SECONDS EAST, 40 FEET AND 33 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN;

THENCE NORTH 00 DEGREES 01 MINUTES 46 SECONDS EAST, 290.66 FEET;

THENCE SOUTH 89 DEGREES 59 MINUTES 41 SECONDS EAST, 22.62 FEET;

THENCE SOUTH 06 DEGREES 26 MINUTES 53 SECONDS EAST, 171.73 FEET;

THENCE SOUTH 00 DEGREES 01 MINUTES 46 SECONDS WEST, 120 FEET;

THENCE SOUTH 89 DEGREES 59 MINUTES 08 SECONDS WEST, 41.99 FEET, MORE OR LESS, TO THE POINT OF BEGINNING:

AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF;

THENCE EAST ALONG THE SOUTH LINE OF SAID SOUTH HALF, A DISTANCE OF 778.83 FEET TO THE POINT OF BEGINNING:

THENCE NORTH 00 DEGREES 00 MINUTES 14 SECONDS WEST, A DISTANCE OF 232.62 FEET;

THENCE NORTH 89 DEGREES 59 MINUTES 48 SECONDS WEST, A DISTANCE OF 103.14 FEET;

THENCE NORTH 00 DEGREES 02 MINUTES 12 SECONDS EAST, A DISTANCE OF 97.97 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTH HALF;

EXHIBIT "A" (CONT.)

ODYSSEY PROFESSIONAL CENTER
LEGAL DESCRIPTION
(CONTINUED)

THENCE SOUTH 89 DEGREES 59 MINUTES 41 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 517.16 FEET;

THENCE SOUTH 00 DEGREES 02 MINUTES 09 SECONDS WEST, A DISTANCE OF 330.53 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTH HALF;

THENCE WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 413.86 FEET TO THE POINT OF BEGINNING;

AND FURTHER EXCEPT THAT PART OF THE SOUTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTH HALF;

THENCE EAST ALONG THE SOUTH LINE OF SAID SOUTH HALF 1,192.69 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00 DEGREES 02 MINUTES 09 SECONDS EAST, A DISTANCE OF 330.53 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTH HALF;

THENCE SOUTH 89 DEGREES 59 MINUTES 41 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 131.75 FEET TO A POINT ON THE WEST LINE OF LOT 37, STONERIDGE ESTATES II, AS RECORDED IN BOOK 204 OF MAPS, PAGE 50, RECORDS OF MARICOPA COUNTY, ARIZONA:

THENCE SOUTH 00 DEGREES 02 MINUTES 09 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 330.52 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTH HALF;

THENCE WEST ALONG SAID SOUTH LINE, A DISTANCE OF 131.75 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

(Unit Identification Numbers, Gross Square Footage,
Allocation of Common Expense Liability and Votes Allocated to Units)

<u>UNIT NUMBER</u>	<u>GROSS SQUARE FOOTAGE</u>
100	12,169
200	9,598
300	5,548
400	5,493
500	12,145
600	6,106
700	9,006
800	<u>12,093</u>
	72,158

Based on square footage of all Units and individual Units, the percentage of undivided interest in the Common Elements and in the Common Expenses of the Association for the Units is as follows:

<u>UNIT NUMBER</u>	<u>UNDIVIDED INTEREST IN COMMON ELEMENTS AND COMMON EXPENSES</u>
100	17
200	13
300	8
400	8
500	17
600	8
700	12
800	<u>17</u>
	100

Based upon the square footage of all Units and each individual Unit, the votes allocated to each Unit are as follows:

<u>UNIT NUMBER</u>	<u>VOTES ALLOCATED</u>
--------------------	------------------------

100	17
200	13
300	8
400	8
500	17
600	8
700	12
800	<u>17</u>
	100