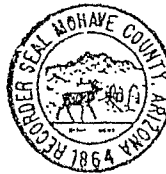


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DECLARATION OF QUEEN'S BAY RESORT CONDOMINIUMS

Mohave County, Arizona

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DECLARATION OF QUEEN'S BAY RESORT CONDOMINIUMS

Mohave County, Arizona

THIS DECLARATION, made on the date hereinafter set forth, by Canyon Bay Development Corporation, a California corporation ("Declarant"), is made with reference to the following facts:

A. Declarant is the owner of a certain tract of land located in the State of Arizona, County of Mohave, more particularly described in Exhibit "A" attached hereto and incorporated by reference. The property described in Exhibit "A", shall be referred to herein as the "Property".

B. Declarant has improved or intends to improve the Property by subdividing the Property and constructing thereon certain residential improvements and recreational facilities, and desires to develop the Project as a Condominium pursuant to the Arizona Condominium Act, Arizona Revised Statutes, Section 33-1201 et seq., as the same may be amended from time to time.

C. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the Condominium Units in the Project and the Owners thereof.

NOW, THEREFORE, subject to all provisions of the Declaration, Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, the Project and every part thereof, in accordance with the plan for the improvement of the Property and the division thereof into Condominium Units. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarant, its successors and assigns and all parties having or acquiring any right, title or interest in or to any part of the Property or the Project.

## ARTICLE I

### Definitions

- 1.1 "Allocated Interests" shall mean and refer to the Common Interest, the Common Expenses liability and vote in the Association allocated to each Condominium Unit.
- 1.2 "Arizona Condominium Act" shall mean and refer to the provisions of A.R.S. §33-1201 et seq., as the same may be amended from time to time, or any successor statutes thereto.
- 1.3 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.
- 1.4 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the Property which is to be paid by each Unit Owner as determined by the Association and as provided under Article 5 hereof.
- 1.5 "Association" shall mean and refer to Queen's Bay Resort Condominium Owners Association, an Arizona nonprofit corporation, the Members of which shall be the Owners of Condominium Units in the Project.
- 1.6 "Board" or "Board of Directors" shall mean and refer to the governing body from time to time.
- 1.7 "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.
- 1.8 "Committee" shall refer to the Architectural Control Committee as further defined in Subarticle 9.3.
- 1.9 "Common Elements" shall mean and refer to those portions of the Project for which title is held by all of the Owners as tenants in common, including the Limited Common Elements, but excluding the individual Units as defined herein. The Common Elements includes without limitation: land; interior and exterior parking and driveway areas; parking areas, carport canopies, bearing walls, columns, girders, subfloors, unfinished floors, walls and ceilings not contained within a Unit; roofs and foundations; central chutes, conduits, pipes, plumbing wires and other utility installation (except the outlets thereof when located within the Unit) required to provide power, light, telephone, gas, water, sewage, drainage, heat, airconditioning and elevator service; sprinklers, sprinkler pipe and sprinkler heads which protrude into the airspace of the Unit; central television antennas, if any; and all facilities and improvements located within the Common Elements.
- 1.10 "Common Expenses" means and includes the actual and estimated expenses of operating the Project and the Association and any reasonable reserve for such purpose as found and determined by the Board and all sums designated Common Expense by or pursuant to the Project Documents.



1.11 "Common Interest" means the proportionate undivided interest in the Common Elements which is allocated to each Condominium Unit. The Common Interest shall constitute an Allocated Interest.

1.12 "Condominium Building" shall mean a residential structure containing Units.

1.13 "Condominium Unit" shall mean an estate in real property consisting of title to a Unit within the Condominium hereby established, the Common Interest allocated thereto shall be calculated as follows: Each Condominium Unit shall have a Common Interest represented by a fraction, the numerator of which is one and the denominator of which is the total number of Units subject to this Declaration, with one vote in the Association allocated for each such Unit and an equal share of the Common Expenses pursuant to the formula set forth in Subarticles 4.4 and 5.6. The Project shall consist of One Hundred Seventy (170) Condominium Units each of which shall have a Common Interest in the Common Elements; together with the Unit's interest in the Limited Common Elements allocated to that Unit; a non-exclusive right to use the Common Elements and Membership in the Association.

1.14 "Declarant" shall mean and refer to Canyon Bay Development Corporation, a California corporation, its successors and assigns, who have reserved, are granted or succeed to some or all of the Special Declarant Rights described herein, but shall not include members of the public purchasing completed Condominium Units.

1.15 "Declaration" shall mean and refer to this enabling Declaration.

1.16 "Development Rights" shall mean and refer to any right or combination of rights reserved by or granted to Declarant as set forth more fully in Subarticle 3.1.

1.17 "First Mortgage" shall mean any Mortgage which is a first priority lien on any Condominium Unit.

1.18 "First Mortgagee" shall mean the holder of a First Mortgage.

1.19 "Identifying number" means the number, letter (or combination thereof) or other official designation or symbol shown on the Map that identifies one Unit in the Project.

1.20 "Limited Common Elements" shall mean and refer to a portion of the Common Elements allocated by this Declaration or in accordance with the Arizona Condominium Act for the exclusive use and benefit of the Owners of one or more but fewer than all of the Units.

1.21 "Map" shall mean and refer to that subdivision Map recorded May 25, 1990 at Reception No. 90-35198 of the Official Records of Mohave County, Arizona, and any subsequently recorded subdivision Maps and all amendments thereto which cover the Property or a portion thereof. The Map is hereby made a part hereof with the same force and effect as if incorporated herein at length.

1.22 "Member" shall mean and refer to a Person entitled to membership in the Association as provided herein.

1.23 "Mortgage" shall include a recorded deed of trust, and a recorded contract of sale, as well as a recorded mortgage.

1.24 "Mortgagee" shall include the beneficiary or holder of a deed of trust, and the seller (fee owner) under a recorded contract of sale, as well as a mortgagee.

1.25 "Mortgagor" shall include the trustor of a Deed of Trust, and the contract purchaser under a recorded contract of sale, as well as a mortgagor.

1.26 "Owner" shall mean and refer to the record holder of title to a Condominium Unit in the Project. This shall include any Person having a fee simple title to any Condominium Unit, but shall exclude Persons or entities having any interest merely as security for the performance of any obligation. Further, if a Condominium Unit is sold under a recorded contract of sale to a purchaser who resides in the Unit, the resident purchaser, rather than the fee owner, shall be considered the "Owner" as long as he or a successor in interest remains the contract purchaser under the recorded contract.

1.27 "Person" means a natural person, a corporation, a partnership, a trustee or any other legal entity referenced under A.R.S. §33-1202(18) as the same may be amended from time to time.

1.28 "Project" shall mean and refer to that portion of the Property which, at any time, is subject to this Declaration, together with all buildings, structures and improvements erected or to be erected thereon, portions of which are designated for separate ownership and the remainder of which are designated for common ownership solely by the Owners of Units therein. The Project shall constitute a "Condominium" as defined in the Arizona Condominium Act.

1.29 "Project Documents" means and includes this Declaration as it may be amended from time to time, the exhibits, if any, attached hereto, the Map, the Articles and Bylaws of the Association and the rules and regulations for the Members as established from time to time.

1.30 "Property" means and includes the real property covered by this Declaration.

1.31 "Special Declarant Rights" shall mean and refer to any right or combination of rights reserved by or granted to Declarant as more fully set forth in Subarticle 3.2.

1.32 "Time Share" shall mean all inclusive of the definitions per A.R.S. §32-2197, (Real Estate Time Shares).

1.33 "Unit" shall mean and refer to the elements of an individual unit as described in Article 2, which are not owned in common with the Owners of other Condominium Units in the Project.

End of Article 1 Entitled  
Definitions

ARTICLE 2

Description of Project, Division of Project  
and Creation of Property Rights

2.1 Description of Project

The Project consists of the underlying Property (to the extent the Property constitutes a part of the Project) with the residential Units and all other improvements located or to be located thereon.

The name of the Project shall be Queen's Bay Resort Condominiums.

2.2 Division of Project

The project is hereby divided into the following:

2.2.1 Units

Each of the Units numbered and designated on the Map is bounded by, contained within and includes the interior finished surfaces of the perimeter walls, floors and ceilings of the Unit. The location and dimensions of each Unit are set forth on or can be calculated from the Map. The Unit does not include those areas and those things which are defined as "Common Elements" below. Each Unit and appurtenant area is subject to such encroachments as are contained in the Condominium Building of which the Unit or area is a part or to which it is adjacent. In interpreting deeds and plans, the then existing physical boundaries of a Unit or appurtenant area, whether in its original state or reconstructed substantially in accordance with the original plans therefor, shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the Condominium Building and regardless of minor variances between boundaries shown on the plan or deed and those of the Condominium Building.

2.2.2 Common Elements

The remaining portion of the Property, referred to herein as "Common Elements", shall include all of the elements set forth in Subarticle 1.9. Each Condominium Unit Owner shall have, as appurtenant to and a part of his Condominium Unit, the Common Interest allocated to his Unit. The Common Interest appurtenant to each Condominium Unit is declared to be permanent in character and cannot be altered without the consent of all the Condominium Unit Owners, as expressed in an amended Declaration. Such Common Interest cannot be separated from the Unit to which it is appurtenant. Each Condominium Unit Owner shall have a nonexclusive right to the the Common Elements in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other Condominium Unit Owners, subject to easements and rights created in Article 7 and Subarticle 2.2.1.

### 2.2.3 Limited Common Elements

Balconies, all exterior doors and windows designed to serve a single Unit, but located outside of the Unit's boundaries as described above, and parking spaces, shall constitute Limited Common Elements to the extent any such area is shown on the Map as being for the use and benefit of a particular Unit or type of Unit. Any chute, flue, duct, wire, conduit, bearing wall, bearing column, or other fixture which lies partially within and partially outside the Unit boundaries shall be Limited Common Elements to the extent the same serve only that Unit. Those portions serving more than one Unit or any assigned to Owners of Condominium Units are not Limited Common Elements and may not be reallocated by any Person except that the Board may reasonably change such assignments as provided in Subarticle 1.13.

### 2.3 No Separate Conveyance of Interests, Rights, and Easements

The interests (including the Common Interest), rights and easements described in this Article 2, or elsewhere in this Declaration as being part of or allocated to each respective Condominium Unit are to be conveyed only as part of or with the respective Condominium Unit and cannot be changed except as set forth herein. Declarant, its successors, assigns and grantees covenant and agree that the fee title to each Condominium Unit conveyed shall include the Unit and all of the interests and easements referred to in the preceding sentence, all of which shall be deemed to be conveyed or encumbered with the Condominium Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Condominium Unit.

### 2.4 Partition Prohibited

The Common Elements shall remain undivided as set forth above. Subject to the terms and provisions of Subarticle 11.4.2 herein, no Owner (except Declarant, as provided in Subarticle 3.1.3) shall bring any action for, or act to partition, subdivide or relocate the boundaries of a Condominium Unit or Time Share any Unit. It being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Condominium Unit owned by two or more Persons and division of the sale proceeds is not prohibited hereby (but partition of title to a single Condominium Unit is prohibited).

### 2.5 Conveyance or Encumbrance of Common Elements

Portions of the Common Elements may be conveyed or subjected to a Mortgage or other security interest by the Association if members entitled to cast at least eighty percent (80%) of the allocated votes in the Association consent thereto, except that all Owners of Units to which any Limited Common Elements are allocated must consent before such actions may be taken with regard to such Limited Common Elements. Proceeds of the sale or encumbrance of the Common Elements are an asset of the Association. Such consent shall be evidenced by execution or ratification of the agreement to convey or encumber the Common

Elements by the requisite number of Owners in the same manner as a deed. The agreement shall specify a date after which the agreement will be void unless previously recorded and shall only be effective upon timely recordation thereof in the Official Records of Mohave County, Arizona Recorder. Any contract executed by the Association on behalf of the Owners to convey, mortgage or otherwise encumber the Common Elements shall be subject to satisfaction of the requirements stated herein. Any other conveyance, encumbrance, judicial sale or voluntary transfer thereof without satisfying such requirements shall be void. No conveyance or encumbrance of Common Elements pursuant to this sub-article shall deprive any Unit of its right to access and support or affect the priority or validity of preexisting encumbrances on the Common Elements.

2.6 Merger or Consolidation of Project

Merger or consolidation of the Project with another Condominium shall be governed by the provisions of the Arizona Condominium Act or if there is no statute governing mergers or consolidations of Condominiums at the time such action is proposed, the Members of the Association may adopt an agreement providing for merger or consolidation of the Project with another Condominium the terms of which have been approved by Owners holding the percentage of votes required to terminate this Project to Subarticle 11.14.

End of Article 2 Entitled  
Description of Project, Division of Project  
and Creation of Property Rights

ARTICLE 3

Exercise of Development Rights  
and Special Declarant Rights

3.1 Declarant's Development Rights

In addition to any rights reserved under Subarticle 11.9 hereof, Declarant hereby reserves the right to do any of the following:

3.1.1 While Declarant owns any Units, create easements, Units, Common Elements, or Limited Common Elements at any location within the Project.

3.1.2 While Declarant owns any Units, subdivide Units, convert Units into Common Elements or convert Common Elements into Units at any location within the project.

3.1.3 While Declarant owns any Units not sold to Owners as entire Units, said Units may be Time Shared by Declarant. This is the exclusive right of the Declarant and no other Unit Owner shall have the right to Time Share a Unit. The Declarant's initial intent is to develop the Property as a resort condominium, however, any Unit now within the Property may, at the sole option of the Declarant, be sold as a Time Shared Unit, subject to the provisions of the Queen's Bay Resort Time Share Declaration as recorded contemporaneously with this Condominium Declaration in the office of the Mohave County Recorder. This right of Declarant shall exist so long as Declarant, its assigns or successors own one or more Units in the Property or any unsold Time Share periods.

3.1.4 While Class B Membership exists, amend the Declaration to comply with applicable law or to correct any error or inconsistency in the Declaration, if the amendment does not adversely affect the rights of any Unit Owners.

3.1.5 While Class B Membership exists, amend the Declaration 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.

3.2 Special Declarant Rights

Declarant hereby reserves the right to do any of the following:

3.2.1 At any time while this Declaration is in effect, construct the improvements in the Project as provided for in the Declaration.

3.2.2 Exercise any Development Rights at the location and at the time described in Subarticle 3.1 above.

3.2.3 While Declarant owns any Units, maintain sales offices, sales trailers, management offices, signs advertising the Project, and models at any location in the Common Elements, including in any clubhouse or recreational facility, or in any Unit owned by Declarant.

3.2.4 At any time while this Declaration is in effect, use easements through the Common Elements created pursuant to Subarticle 11.10 for the purpose of making improvements within the Project.

3.2.5 While Class B Membership exists, appoint or remove any officer of the Association or any Board member.

### 3.3 Exercise of Declarant's Development Rights

Prior to exercising any Development Right, the Declarant shall prepare, execute and record an amendment to the Declaration referencing such right together with a new Map if the previously recorded Map of the Project does not show the boundaries of the portion of the Property as to which the development right is exercised. The amendment to the Declaration shall assign a Identifying Number to each new Unit created if not shown on the previous Map and, except in the case of a subdivision of Units or conversion of Units into Common Elements (subject to Subarticle 3.3.1), the amendment shall reallocate the Allocated Interests among all Units. The amendment shall describe any Common Elements and any Limited Common Elements created and, in the case of the Limited Common Elements, designate the Unit or Units to which each is allocated. The Declarant may reserve Development Rights or Special Declarant Rights provided that such reservation does not extend any time limit on the exercise of Development Rights set forth in Subarticle 3.1.

#### 3.3.1 Subdivision or Conversion of Units into Additional Units or Common Elements or Both

If the Declarant subdivides a Unit into two or more Units, whether any part of the Unit is converted into Common Elements, the amendment to the Declaration shall reallocate the Allocated Interests of the Unit among the Units created by the subdivision in any reasonable manner prescribed by the Declarant consistent with the formulas for allocations set forth herein. If the Declarant converts a Unit entirely to Common Elements, the amendment to the Declaration must reallocate all of the Allocated Interests of that Unit among the other Units in the manner set forth in Subarticle 11.8 as if that Unit had been taken by eminent domain.

End of Article 3 Entitled  
Exercise of Development Rights  
and Special Declarant Rights

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Association, Administration, Membership  
and Voting Rights

4.1 Association to Manage Common Elements

The management of the Common elements shall be vested in the Association in accordance with the Bylaws. The Owners of all the Condominium Units covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles and the Bylaws of the Association, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project. Any agreement for professional management of the Project or any agreement providing for services by Declarant (or any affiliate of Declarant) shall provide for termination by either party without cause or payment of a termination fee upon ninety (90) days' or less written notice or for cause upon thirty (30) days' or less written notice and without payment of a termination fee. Such agreement shall further provide for a reasonable contract term of from one (1) to three (3) years and be renewable only by consent of the Association and the other party.

4.2 Membership

The Owner of a Condominium Unit shall automatically, upon becoming the Owner of same, be a Member of the Association and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

4.3 Transferred Membership

Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Condominium Unit to which it is appurtenant, and then only to the new Owner as provided in Subarticle 4.2 above. Any attempt to make a prohibited transfer is void. Upon the transfer of an ownership interest in a Condominium Unit, the Association shall record the transfer upon its books, causing an automatic transfer of membership as provided in Subarticle 4.2 above.

4.4 Classes of Membership

The Association shall have two (2) classes of voting membership established according to the following provisions:

4.4.1 Class A Membership

Class A Membership shall be that held by each Owner of a Condominium Unit other than Declarant (while two classes of membership exist), and Class A Members shall be entitled to votes in the Association based upon one (1) vote for each Condominium Unit owned provided that such Class A Members may not vote for or elect Directors until Class B Membership terminates as provided below. If a Condominium Unit is owned by more than one (1) Person, each such Person shall be a Member of the Association but the Owners thereof shall have no more than the allocated votes thereto.

#### 4.4.2 Class B Membership

Class B Membership shall be that held by Declarant (or its successors). The Class B Member shall be entitled to the number of votes for each Condominium Unit which the Declarant owns based upon the same formula for allocation of votes to Units owned by the Class A Members. Notwithstanding the foregoing, Class B Membership shall be converted to Class A Membership and Declarant's concurrent right to appoint and remove officers and Directors under Subarticle 3.2 shall forever cease to exist on the occurrence of whichever of the following is first in time:

4.4.2.1 Ninety days after seventy-five percent (75%) of the Units have been sold to Owners other than Declarant. For purposes of the conversion of Class B Membership under this Subarticle 4.4.2.1, the number of 170 Units in the Project shall be deemed to be the total Condominium Units, said 170 Units being the planned total of the Project.

4.4.2.2 The fourth anniversary after Declarant or its successor, has ceased to offer Units for sale in the ordinary course of business.

4.4.2.3 Upon Declarant's notification to the Association that it relinquishes its Class B rights, except that the Declarant may retain the right (by recorded instrument reserving said rights) to approve specified actions of the Association or the Board during the period to expiration of Class B Membership by operation of Subarticles 4.4.2.1, 4.4.2.2. The Declarant, as the Class B Member, or its successors, or any Person designated in writing by the Declarant as having such authority, may appoint and remove members of the Board and officers of the Association, in its sole discretion. The period during which Class B Membership exists shall be deemed to be the period of "Declarant Control" as described in the Arizona Condominium Act.

#### 4.5 Voting Requirements

Any action by the Association which must have the approval of the Association Membership before being undertaken shall require the vote of Members holding fifty-one percent (51%) of the voting power of the Association present and voting at a duly called and held meeting of the Membership at which a quorum as prescribed herein or in the Bylaws has been constituted or the written assent of fifty-one percent (51%) of the Membership unless another percentage is specifically prescribed by a provision within this Declaration, the Bylaw or the Articles of the Association.

#### 4.6 Voting Rights

Voting rights attributable to all completed Condominium Units owned by Declarant shall vest immediately by virtue of Declarant's ownership thereof. Except for Declarant, no Owner of any Condominium Unit shall have any voting rights attributable to that Condominium Unit until an Assessment has been levied against that Condominium Unit and Owner by the Association pursuant to Article 5 below.

4.7 Membership Meetings

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place and in accordance with the provisions of the Bylaws of the Association.

4.8 Board of Directors

The affairs of the Association shall be managed by a Board of Directors which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

End of Article 4 Entitled  
Association, Administration, Membership  
and Voting Rights

## ARTICLE 5

### Assessments and Charges

#### 5.1 Creation of the Lien and Personal Obligation for Assessments and Charges

Each Owner of any Condominium Unit, by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) regular annual Assessments, (b) special Assessments for capital improvements and unexpected expenses and (c) other charges made or levied by the Association against the Owner or Condominium Unit pursuant to this Declaration or the Bylaws, including, but not limited to late charges for delinquent Assessments, such Assessments and charges to be established and collected as provided herein and in the Bylaws of the Association. A late charge of \$10.00 shall be assessed to the Owner in the event any Assessment is not paid within ten (10) days after the due date. Any part of any Assessment (or other amount due from the Owner to the Association, including interest and/or late charges) not paid within thirty (30) days after the due date for the Assessment established in this Article 5, Subarticle 11.16 or elsewhere in this Declaration shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid. The annual and special Assessments and any other charge made against an Owner or a Condominium Unit pursuant to this Declaration or the Bylaws, together with interest, costs and reasonable attorneys' fees incurred by the Association in enforcing compliance with this Declaration (whether or not a lawsuit or other legal action is instituted or commenced) as provided in Subarticle 11.16.2, shall be a charge and shall be secured by a continuing Lien upon the Condominium Unit in favor of the Association as provided in A.R.S. §§33-1215(A)(10) and 33-1256 of the Arizona Condominium Act and this Declaration (hereinafter "Assessment Lien"). Each such Assessment and charge, together with interest, costs (including collection costs) and reasonable attorneys' fees as provided above, shall also be the personal obligation of the Person who was the Owner of such Condominium Unit at the time the Assessment or other charge fell due as provided in this Article 5, Subarticle 11.16 or elsewhere in this Declaration. The Assessment lien on each Condominium Unit shall be prior and superior to all other liens except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto and (b) the lien or charge of any First Mortgage on that Condominium Unit. No Owner of a Condominium Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by the Abandonment of his Condominium Unit.

#### 5.2 Purpose of Assessments

The Assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the Project, for the improvement and maintenance of the Common Elements and for the common good of the project. Annual Assessments shall include a adequate reserve fund for taxes, insurance, maintenance, repairs and replacement of the Common Elements, which fund shall be maintained in a separate account of the Association to be drawn upon only for those purposes.

### 5.3. Annual Assessments

The Board shall annually determine and fix the amount of the annual (calendar year) Assessment against each Condominium Unit, including those completed Units owned by Declarant and shall notify the Owner of each Condominium Unit in writing as to the amount of such annual Assessment not less than thirty (30) days prior to the date that such Assessment is to commence. In connection therewith, the Board is expressly authorized to adopt and amend budgets from time to time without the approval of the Owners and shall provide a summary of any such budget or amended budget not later than thirty (30) days after adoption of the same by the Board. Without the affirmative vote of two-thirds (2/3) of the Members of each class of the Association membership voting in person or by proxy at a meeting duly called for this purpose, and except as to the first annual Assessment, the annual Assessment may neither be: (a) increased above the Assessment amount established for the previous year except as increased by the greater of (i) an amount consistent with the percentage increase, if any, in the Consumer Price Index - All urban consumers - All Items (published by the Department of Labor, Washington, D.C.) for the year ending with the preceding July (or a similar Index if the above described Index is no longer published), or (ii) ten percent (10%) of the previous year's assessment, nor (b) decreased by more than twenty percent (20%) below the annual Assessment for the previous year. Assessments may be increased above the limitation set forth above if necessary to meet increased utility and/or insurance costs. All annual Assessments shall be payable in twelve (12) equal monthly installments. Notwithstanding the foregoing, the full amount of the Assessment is a lien from the time the first installment of the Assessment becomes due. In the year prior to January 1 of the year immediately following the close of escrow on the sale of the first Condominium Unit in the Project, the maximum annual Assessment per Condominium Unit shall be ~~\$1,080.00~~. The annual Assessment shall be prorated based on the number of months remaining before January 1 of such year, as well as any partial months remaining.

### 5.4 Special Assessments

In addition to the regular annual Assessments authorized above, the Board may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common elements, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense normally covered by a regular Assessment and for any deficiency caused in whole or in part by delinquent Assessments, provided however, that no such special Assessment shall be made without the affirmative vote of two-thirds (2/3) of each class of the Association membership voting in person or by proxy, at a meeting duly called for this purpose.

### 5.5 Notice and Quorum for Any Action Authorized Under Sub-articles 5.3 and 5.4

Written notice of any meeting called for the purpose of taking any action authorized under Subarticles 5.3 or 5.4 shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies therefor at the beginning of the meeting entitled to cast twenty-five percent (25%) of all of the votes in the Association shall constitute a quorum.

If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting unless notice is given to all Members entitled to vote at the adjourned meeting.

5.6 Allocation of Assessments

The Owners of each Condominium Unit, including those Units owned by Declarant, shall pay regular and special Assessments on an equal bases. If there are any Units not substantially completed, the Declarant may pay for each such Unit twenty-five percent (25%) of any regular or special Assessments. It is further provided, the Declarant shall be obligated to pay any deficiency in the ability of the Association to pay all common expenses up to the amount of the full assessment for any such Unit. Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element or Common Elements benefitting fewer than all of the Units shall be assessed to all of the Units in the Project in the same manner as allocation of the Common Expenses incurred in connection with any other portion of the Common Elements, unless such Common Expense results from damage or destruction to the Limited Common Elements by any Unit Owner for which such Unit Owner is responsible as provided in Subarticle 8.11. Assessments to pay a judgment against the Association may be made only against the Units in the Project at the time the judgment is entered in proportion to their Common Expense liabilities. If Common Expense liabilities are reallocated, any Common Expense assessments or installments thereof not yet due shall be recalculated in accordance with the reallocated Common Expenses liabilities.

5.7 Date of Commencement of Annual Assessment; Due Dates

The regular annual Assessments provided for herein shall commence as to each Condominium Unit in the Project on the first day of the month following the close of escrow on the sale of the first Condominium Unit in the Project. Due dates of Assessments shall be established by the Board and notice shall be given to each Condominium Unit Owner at least thirty (30) days prior to any due date, provided that if Assessments are to be due on a monthly basis, no notice shall be required other than an annual notice setting forth the amount of the monthly Assessment and the day of each month on which each Assessment is due.

5.8 Transfer of Unit by Sale or Foreclosure

The sale or transfer of any Condominium Unit shall not affect the Assessment lien or liability for Assessments due and payable except as provided below. No sale or transfer of a Condominium Unit shall relieve such Condominium Unit from liability for any Assessments thereafter becoming due or from the lien therefor. Where, however, the First Mortgagee of a First Mortgage of record or another Person obtains title to a Condominium Unit as a result of foreclosure, trustee's sale or deed in lieu thereof of any such First Mortgage, such First Mortgagee or other Person shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Condominium Unit which became due prior to the acquisition of title to such Condominium Unit by such First Mortgagee or other Person, and the Assessment lien therefor on such Condominium Unit shall be extinguished. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectable from all of the Condominium Units. In a voluntary conveyance of a Condominium

Unit, the grantee of the same shall not be personally liable for Assessments or any other charges due to the Association in connection with that Condominium Unit which accrued prior to the conveyance unless liability therefor is specifically assumed by the grantee. The Association shall, within twenty days after receipt of a written request from a lienholder, Unit Owner, or Person designated by a Unit Owner, provide a statement in recordable form setting forth the amount of unpaid Assessment due the Association against any Unit. Such statement shall be binding upon the Association, the Board and every Unit Owner.

5.9 Enforcement of Assessment and Other Monetary Obligations; Discipline; Remedies Cumulative

5.9.1 Enforcement and Foreclosure of Lien

When any Assessment or other amount due from an Owner to the Association is not paid within 30 days after the due date, the lien therefor may be enforced by foreclosure of the lien and/or sale of the Owner's Condominium Unit by the Association, its attorney or other Person authorized by this Declaration or by law to make the sale or as provided herein. The lien may be foreclosed and the Condominium Unit sold in the same manner as a realty mortgage or the lien may be enforced or foreclosed in any other manner permitted by law for the enforcement or foreclosure of liens against real property or the sale of property subject to such a lien. Any such enforcement, foreclosure or sale action may be taken without regard to the value of such Condominium Unit, the solvency of the Owner thereof or the relative size of the Owner's default. Upon the sale of a Condominium Unit pursuant to this Subarticle, the purchaser thereof shall be entitled to a deed to the Condominium Unit and to immediate possession thereof, and said purchaser may apply to a court of competent jurisdiction for a writ of restitution or other relief for the purpose of acquiring such possession. The proceeds of any such sale shall be applied as provided by applicable law but, in the absence of any such law, shall be applied first to discharge costs thereof, including but not limited to court costs, other litigation costs, costs and attorneys' fees incurred by the Association, all other expenses of the proceedings, interest, late charges, unpaid Assessments and other amounts due to the Association, and the balance thereof shall be paid to the Owner. It shall be a condition of any such sale, and any judgments or orders shall so provide, that the purchaser shall take the interest in the Condominium Unit sold subject to this Declaration. The Association, acting on behalf of the Condominium Unit Owners, shall have the power to bid for the Condominium Unit at any sale and to acquire and hold, lease, mortgage or convey the same. In the event the Owner against whom the original Assessment was made is the purchaser or redemptioner, the lien shall continue in effect and said lien may be enforced by the Association for the Condominium Unit's Assessments and other amounts that were due prior to the final conclusion of any such foreclosure, sale or equivalent proceedings. Further, notwithstanding any foreclosure of the lien or sale of the Condominium Unit, any Assessments and other amounts due after application of any sale proceeds as provided above shall continue to exist as personal obligations of the defaulting Owner of the Condominium Unit to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a Member of the Association.

### 5.9.2 Suspension of Rights

In addition to all other remedies provided for in this Declaration or at law or in equity, the Board may temporarily suspend the Association voting rights and/or rights to use the Recreational Common Elements of a Condominium Unit Owner who is in default in the payment of any Assessment or any other amount due to the Association as provided in the Bylaws.

### 5.9.3 Other Remedies

The rights, remedies and powers created and described in Subarticles 5.9.1, 5.9.2, 11.16 and elsewhere in this Declaration, the Articles or the Bylaws are cumulative and may be used or employed by the Association in any order or combination, except as specifically provided to the contrary herein. Without limiting the foregoing sentence, suit to recover a money judgment for unpaid Assessments, interest, rent, costs, attorneys' fees and/or other amounts due hereunder, to obtain specific performance of obligations imposed hereunder and/or to obtain injunctive relief may be maintained without foreclosing, waiving, releasing or satisfying the liens created for Assessments or other amounts due hereunder.

### 5.10 Allocation of Taxes

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

End of Article 5 Entitled  
Assessments and Charges



ARTICLE 6

Duties and Powers of the Association

6.1 Duties and Powers

In addition to the duties and powers enumerated in the Bylaws and the Articles, or elsewhere provided for herein, and without limiting the generality thereof, and except as provided by law, the Association shall:

6.1.1 Except as provided in Subarticle 6.2 and Subarticle 11.5, maintain, repair, replace, restore, operate and manage all of the Common Elements (including parking spaces subject to the rights created as provided in Subarticle 1.13); the Limited Common Elements and all facilities improvements, furnishings, equipment and landscaping thereon and all property that may be acquired by the Association in good condition. This obligation shall not extend to the maintenance of any portion or facility of the Common Elements required to be maintained by an individual Owner under this Declaration or the Bylaws.

6.1.2 Enforce the provisions of this Declaration by appropriate means, including without limitation the expenditure of funds of the Association, the employment of legal counsel and the commencement of legal actions

6.1.3 Maintain such policy or policies of insurance as are required by this Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members.

6.1.4 Grant and reserve easements where necessary for utilities and sewer facilities over the Common Elements to serve the Common Elements and the Units.

6.1.5 Have the authority to employ a manager or other Persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association (subject to the further provisions of Subarticles 4.1 and 11.9 hereof), subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.

6.1.6 Adopt reasonable rules not inconsistent with this Declaration, the Articles or the Bylaws relating to the use of the Common Elements and all facilities thereon and the conduct of Owners and their tenants and guests with respect to the Project and other Owners. Without limiting the generality of the foregoing, the Association may adopt a schedule of fines for the violation of any provisions of the Project Documents by any Owner or other Person and may impose the same pursuant to the procedure adopted in the Bylaws.

6.1.7 Exercise all rights reserved to homeowners associations under the Arizona Condominium Act, including the right to assign future income (e.g., the right to receive Common Expense Assessments).

## 6.2 Maintenance of Project by Association

The Association shall provide maintenance of the Project as provided in this Declaration. The Association shall not be responsible for maintaining and repairing glass surfaces (notwithstanding that the same are part of the Limited Common Elements of the Units) or capital improvements built or personal property placed by an Owner on or within his Unit or within the Limited Common Elements allocated thereto. The Association shall paint or otherwise decorate and maintain the interior finished ceiling, floor and wall surfaces of any balconies except for coverings thereon added by Owners which shall be the sole responsibility of the Owners installing same (and shall be subject to the provisions of Article 9) and shall maintain, repair and replace all balconies and fences. The Association shall have access thereto at all times for the maintenance, repair or replacement thereof. The responsibility of the association for maintenance and repair shall not extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner or his guests, tenants or invitees. The repair or replacement of any portion of the Common Elements resulting from such excluded items shall be the responsibility of each Owner, provided however, that if an Owner shall fail to make the repairs or replacements which are the responsibility of such Owner, the Association, acting through the Board, shall have the right (but not the obligation) to enter the Unit and make such repairs or replacements, and the cost thereof shall be added to the Assessments chargeable to that Condominium Unit and shall be payable to the Association by the Owner of such Condominium Unit, provided, however, that liability hereunder shall be limited to that provided for in the statutory or case laws prevailing in the State of Arizona.

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## 6.3 Association Easements and Access to Units

For the purpose of performing the maintenance authorized by this article, or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an easement over and onto all portions of the Common Elements and shall also have the right, after reasonable notice to the Owner and at reasonable hours, to enter any Unit. The Association shall have the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Project.

## 6.4 Custodian Unit

The Association shall have the power and authority with the vote or written assent of a majority of the Members, to purchase a Condominium Unit (the "Custodian Unit") to be occupied by the custodian of the Project. In such case, during the period the Custodian Unit is owned by the Association:

6.4.1 No right to vote shall be exercised on behalf of the Custodian Unit; and

6.4.2 No assessment shall be assessed or levied against the Custodian Unit; and

6.4.3 Each other Condominium Unit Owner shall be charged, in addition to his usual Assessment, his share of the Assessment that would have been charged to the Custodian Unit but for the provisions of this Subarticle.

End of Article 6 Entitled  
Duties and Powers of the Association

ARTICLE 7

Utilities

7.1 Owners' Rights and Duties

The rights and duties of the Owners of Condominium Units within the Project with respect to utilities shall be as follows:

7.1.1 Whenever sanitary sewer, water, electric, gas, television receiving, telephone lines or connections, heating or air-conditioning conduits, ducts or flues are located or installed within the Project, which connections or any portion thereof lie in or upon Units owned by other than the Owner of a Unit served by said connections, the Owners of any Unit served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the Units or to have the utility companies enter upon the Units in or upon which said connections or any portion thereof lie to repair, replace and generally maintain said connections as and when necessary. An Owner or utility company exercising his/its right of entry pursuant to this subarticle shall give reasonable notice to the Owner of a Unit prior to entering therein.

7.1.2 Whenever sanitary sewer, water, electric, gas, television receiving, telephone lines or connections, heating or air-conditioning conduits, ducts or flues are located or installed within the Project, which connections serve more than one Unit, the Owner of each Unit served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service his Unit.

7.1.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

7.2 Easements for Utilities and Maintenance

Easements over and under the Common Elements for the installation, repair and maintenance of sanitary sewer, water, electric, gas, telephone lines and facilities, heating and air-conditioning facilities, cable or master television antenna lines, drainage facilities, walkways and landscaping, as shown on the Map of the Property and as hereafter may be required to service the Property, are hereby reserved for the Association, and its successors and assigns, together with the right to grant and transfer the same.

7.3 Association's Duties

The Association shall maintain all utility installations located in the Common Elements except for those installations maintained by utility companies, public, private or municipal. From time to time, the City of Lake Havasu may perform maintenance to the private sewer system. The City of Lake Havasu has the right to answer any complaints for sewer problems which may arise within the private sewer area of the Queen's Bay Resort Condominium Complex, and is authorized to correct any such problems, and to be able to

charge the Queen's Bay Resort Condominium Owners Association for the direct cost of such work performed. If this billing is not paid, the City of Lake Havasu has the right to lien the subject property and/or the Queen's Bay Resort Condominium Owners Association for such incurred costs, and have the right to sell subject property to regain any and all costs incurred. The Association shall pay all charges for utilities supplied to the Project except those metered or charged separately to the Units, which shall be paid by the respective Owners of those Units.

End of Article 7 Entitled  
Utilities

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## ARTICLE 8

### Use Restrictions

In addition to all of the covenants contained herein, the use of the property and Project and each Unit therein is subject to the following:

#### 8.1 Use of Individual Units

No Unit shall be occupied and used except for single family residential purposes by the Owners, their tenants and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns may use any Unit or Units in the Project owned by Declarant for a model home or homes and display and sales and/or management office, and Declarant may use any clubhouse facility as a display and sales office as provided in Subarticle 3.2.3.

#### 8.2 Nuisances

No noxious, illegal or offensive activities shall be conducted in any Unit or on any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to, or which may in any way interfere with, the quiet enjoyment of each Owner of his respective Condominium Unit or which shall in any way increase the rate of insurance for the Project or cause any insurance policy to be cancelled or cause a refusal to renew the same or which will impair the structural integrity of any Condominium Building. Any increase in the insurance premiums for the Project caused by an Owner shall be paid for by such Owner.

#### 8.3 Vehicle Restrictions

No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pick-up truck), inoperable automobile, boat or similar equipment shall be permitted to remain upon any area within the Project other than temporarily (for purposes of loading and unloading of passengers or personal property). Commercial vehicles shall not include sedans or standard size pick-up trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property.

#### 8.4 Signs

Signs advertising Condominium Units for sale or rent may only be displayed at such location or locations within the Common Elements as may from time to time be designated for such purpose by the Board in its sole discretion provided that any such permitted signs shall be of reasonable and customary size and provided further that no signs shall be displayed to the public view on any Units or on any portion of the Property unless first approved by the Board or the Architectural Control Committee. Without limiting the foregoing, the Board may designate a bulletin board located on the Common Elements on which such sign may be posted to the exclusion of or in conjunction with other locations as determined by the Board.

#### 8.5. Animals

No animals or birds of any kind shall be raised, bred or kept in any Unit or on any portion of the Property, except that one usual and ordinary household pet such as a dog, cat or bird may be kept at any one time, provided that it is kept under reasonable control at all times. The Board may enact reasonable rules respecting the keeping of such animals within the Project and may designate certain areas in which such animals may be taken. The Association, by and through the Board, reserves the right to have any such pet removed if the pet's behavior becomes objectionable to the Members of the Association, which right shall not be unreasonably applied.

#### 8.6 Garbage and Refuse Disposal

All rubbish, trash and garbage shall be regularly removed from the Property and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept, except in sanitary containers. All equipment, garbage cans (other than any garbage cans or dumpsters installed by Declarant or provided by the Association for the use of the Condominium Unit Owners) shall be kept screened and concealed from view of the other Units, streets and the Common Elements except as necessary for the collection thereof.

#### 8.7 Radio and Television Antennas

No alteration to or modification of a central radio or television antenna system or cable television system, whichever is applicable, if any, shall be permitted, and no Owner may be permitted to construct, use or operate his own external radio or television antenna, nor to install or use any external speakers without the consent of the Board.

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#### 8.8 Right to Lease

The respective Units shall not be rented by the Owners thereof for transient or hotel purposes which shall be defined as (a) rental for any period less than thirty (30) days or (b) any rental if the occupants of the Unit are provided customary hotel service such as room service for food and beverages, maid service, laundry and linen service and bellboy service. Subject to the foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Units, provided that the lease is in writing and is specifically made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the Bylaws and any reasonable rules and regulations published by the Association. Without limiting the generality of the foregoing, the Owner of any Unit occupied by a tenant and/or the tenant of any Unit so occupied shall pay any and all security deposit or deposits which may be required by rules or regulations adopted by the Board and published by the Association. Any Owner who leases his/her Unit shall provide a copy of the lease to the Association within ten (10) days of its execution. This provision shall in no way prevent Declarant's rights as provided under Subarticle 3.1.3 to sell or rent Time Share interests in the Property.

#### 8.9 Clotheslines; Window Coverings; Storage

No exterior clotheslines shall be erected or maintained and there shall be no outside laundering or drying of clothes. Furthermore, no clothing, laundry or other personal items are to be hung out on the balconies or exteriors of the Units. No kind of foil or darkening screen shall be placed

upon the windows of the Units nor shall the balconies of the Units be used for the storage of bicycles, motorized vehicles of any nature or for the storage of unsightly, broken or poorly maintained furniture or other such objects, the storage of which shall constitute a nuisance under Subarticle 8.2 herein.

8.10 Power Equipment and Car Maintenance

No power equipment, work shops, car maintenance and car washing shall be permitted on the Project without the prior written approval of the Board (except emergency work or minor repairs requiring less than one (1) day's work). Approval shall not be unreasonably withheld and in deciding whether to grant approval the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception and similar objections.

8.11 Liability of Owners for Damage to Common Elements

The Owner of each Condominium Unit shall be liable to the Association for all damage to the Common Elements or improvements thereon (in an amount not less than the full replacement value of such damaged property) caused by such Owner or any occupant, guest or invitee of or to his Unit to the extent such Owner is responsible therefor under the statutory or case laws of the State of Arizona. In addition to the foregoing, damage to party walls is subject to the provisions of Article 10.

~~8.12 No Warranty of Enforceability~~

While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 8 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Condominium Unit in the Project in reliance on one or more of such restrictive covenants shall assume all risks of the validity and enforceability thereof and by acquiring the Condominium Unit agrees to hold Declarant harmless therefrom.

End of Article 8 Entitled  
Use Restrictions



ARTICLE 9

Architectural Control

9.1 Prohibition of Alteration and Improvement

Subject to the exemption of Declarant under Subarticle 11.9 below, no building, fence, wall, obstruction, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, solar collector, antenna, improvement or structure of any kind shall be commenced, erected, painted or maintained upon the Project, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by an Architectural Control Committee (the "Committee") appointed by Declarant or elected by the Board as provided in this article. There shall be no construction, alteration or removal of any structure or improvement in the Project which would impair or affect the integrity or stability of any existing structure. No Owner shall install or replace an air-conditioning unit without the prior written approval of the Committee which shall have the right to approve or disapprove the size, shape, noise level and proposed location of such air-conditioning unit.

9.2 Plans and Approval

Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements or alterations shall be submitted to the Committee for approval as to quality of workmanship, design and harmony of external design with existing structures and as to location in relation to surrounding structures, topography and finished grade elevation. ~~No permission or approval shall be required to rebuild in accordance with plans and specifications previously approved by the Committee.~~ No landscaping of patios visible from the street or from the Common Elements shall be undertaken by any Owner until plans and specifications showing the nature, kind, size and location of the landscaping materials have been submitted and approved by the Committee in accordance with this Article 9. In the event the Committee fails to approve or disapprove such plans, specifications and proposed improvement or alteration within forty-five (45) days after said plans and specifications have been submitted to it, written approval by the Committee will not be required and this article will be deemed to have been fully complied with. The restrictions contained in this paragraph shall not apply to the Declarant in any manner. Approval by the Committee shall not be deemed or interpreted to be a warranty or confirmation of any kind concerning the engineering or structural integrity, quality or safety of construction of the proposed improvements or modifications and the Person proposing the same and his agents and contractors, shall be solely responsible therefor.

9.3 Architectural Control Committee

The number, appointment and term of members of the Committee shall be as follows:

9.3.1 There shall be three (3) members on the Committee.

9.3.2 Declarant may appoint all of the original and replacement members of the Committee and, at any time, may remove and replace any of the members of the Committee until the termination of Class B Membership as provided in Subarticle 4.4.2. The Board shall thereafter have the power to appoint replacements for or remove and replace any or all of the members of the Committee. Subject to the right and power of the Board to remove and replace, at any time, any member of the Committee, Committee members or replacements appointed by the Board shall serve one (1) year terms.

9.3.3 Committee members appointed by Declarant need not be Members of the Association. Committee members appointed by the Board shall be Members of the Association. Officers and Directors of the Association can be members of the Committee.

End of Article 9 Entitled  
Architectural Control

## ARTICLE 10

### Party Walls

#### 10.1 Creation of Party Wall Rights and Duties

Each wall, including balcony and storage room walls, which is constructed as part of the original construction of a Condominium Building or as part of any reconstruction thereof, any part of which is placed on the dividing line between separate Units, shall constitute a party wall. With respect to any such wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

#### 10.2 Damage by Act of Owner

In the event any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owner shall forthwith proceed to rebuild and repair the same to as good a condition as formerly existed without cost to the adjoining Owner or the Association provided, however, the liability hereunder shall be limited to that provided for in the statutory or case laws prevailing in the State of Arizona. In the event any such party wall is damaged or destroyed through or from any other cause, the Association shall be responsible for rebuilding or repairing the same at its cost pursuant to Subarticle 6.2.

#### 10.3 Negligence

In the event any party wall is exposed to the elements through the act of one adjoining Owner or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable), said Owner shall bear the whole cost of furnishing the necessary protection against such element, but in the event any such party wall is exposed to the elements through any other cause, the Association shall furnish the necessary protection against such elements.

#### 10.4 Alterations or Modification

In addition to meeting the other requirements of these restrictive covenants and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his Unit in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner.

#### 10.5 Disputes

In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association and the final decision resulting from such arbitration shall be binding upon the Owners. If no such rules have been adopted, the matter shall be submitted to

three arbitrators, one chosen by each of the Owners and the third arbitrator to be chosen within five (5) days by any judge of the Superior Court of Mohave County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the Owners who shall share the cost of arbitration equally. In the event one Owner fails to choose an arbitrator within ten (10) days after personal receipt of a request in writing for arbitration from the other Owner, then said requesting Owner shall have the right and power to choose both arbitrators. Arbitration decisions shall be fully enforceable and may be lodged with the Mohave County Superior Court under prevailing rules for purposes of obtaining a judgment therefor.

10.6 Benefit and Binding Effect

These covenants shall be binding upon the heirs and assigns of every Owner but no Person shall be liable for any act or omission respecting any party wall except such as took place while said Person was an Owner.

End of Article 10 Entitled  
Party Walls

ARTICLE 11

General Provisions

11.1 Invalidity of Any Provision

Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

11.2 Amendments

Subject to the standards set forth in any applicable laws, regulations or ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project and the rights of the Owners and First Mortgagees provided herein, and except as specifically provided elsewhere in this Declaration, this Declaration may be amended only by the vote or written assent of Unit Owners to which sixty-seven percent (67%) of the votes in the Association are allocated and the consent of Declarant while Class B Membership exists, provided, however, that the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. The requirement of Subarticle 11.2.1 and any restriction set forth concerning the amendment of certain provisions of the Project Documents shall be in addition to the requirements set forth in this Subarticle 11.2. Within ~~thirty (30) days~~ after the adoption of any amendment pursuant to this subarticle, the President of the Association shall prepare, execute and record a written instrument setting forth the amendment adopted whereupon such amendment shall become effective. Without limiting the generality of the foregoing, and except as expressly permitted by the Arizona Condominium Act and Subarticle 3.1, an amendment shall not create additional or increase existing Special Declarant Rights, increase the number of Units or change the boundaries of any Unit, the Allocated Interests of any Unit or the permitted uses thereof, without the consent of all of the Unit Owners. No amendment shall terminate or decrease any unexpired Development Right, Special Declarant Right or period of Declarant Control without the consent of Declarant.

11.2.1 Additional Requirements for Amendment of Certain Provisions

The following subarticle does not apply to amendments to the Project Documents or termination of the Condominium made as a result of destruction, damage or condemnation.

11.2.1.1 The consent of Owners of Condominium Units to which at least eighty percent (80%) of the votes in the Association are allocated shall be required to terminate the legal status of the Project as Condominium under Arizona law. The provisions of this Subarticle 11.2.1.1 are in addition to any not in lieu of the requirements of Subarticle 11.14.

### 11.3 Encroachment Easements

Each Unit within the Project is hereby declared to have an easement over all adjoining Units and the Common Elements for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of buildings or any other similar cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting, provided however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a Unit or Condominium Building is partially or totally destroyed and then repaired or rebuilt, the Owners of all Units agree that minor encroachments over adjoining Units or the Common Elements shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

### 11.4 Mortgagee Protection Clause

#### 11.4.1 Rights of First Mortgagees

11.4.1.1 No breach of any of the covenants, conditions and restrictions contained in this Declaration nor the enforcement of any lien provisions herein, shall render invalid the lien of any First Mortgage on any Condominium Unit, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure, trustee's sale or otherwise.

~~11.4.2.4 During the pendency (including any period for redemption) of any proceedings to foreclose a First Mortgage (or from the time a trustee under a first deed of trust has given notice of sale pursuant to the power of sale conferred under the deed of trust and pursuant to law), the First Mortgagee, or a receiver appointed in any such action, may but need not exercise any or all of the rights and privileges of the Owner of the Condominium Unit in default, including but not limited to the right to vote as a Member of the Association in the place and stead of the defaulting Owner.~~

11.4.1.3 Notwithstanding anything contained herein to the contrary, at such time as the First Mortgagee shall become record Owner of a Condominium Unit, the First Mortgagee shall be subject to all of the terms and conditions of this Declaration, including but not limited to the obligation to pay all Assessments and charges accruing thereafter in the same manner as any other Condominium Unit Owner.

11.4.1.4 Notwithstanding any language contained in this Declaration to the contrary, no Condominium Unit Owner and no other party shall have priority over any rights of First Mortgagees pursuant to their Mortgages in the case of a distribution to Condominium Unit Owners of insurance proceeds or condemnation awards for losses to or taking of Condominium Units and/or any portion or element of the Common Elements and no changes to this Declaration providing for priority over such rights of First Mortgagees shall be made without the prior consent of all First Mortgagees.

11.4.2 Owner's Right to Sell Condominium Unit

The right of any Owner to sell, transfer or otherwise convey his Condominium Unit shall not be subject to any right of first refusal or any similar restriction in favor of the Association.

11.4.3 Right to Inspect Documents; Audited Financial Statements

The Association shall make available to Owners, current copies of the Declaration, Articles, Bylaws, rules of the Association and the books, records and financial statements of the Association. "Available" means available for inspection (and copying at the expense of the requesting party), upon request, during normal business hours or under other reasonable circumstances.

11.5 Owner's Right and Obligation to Maintain and Repair

Except for those portions of the Project which the Association is required to maintain and repair as provided in Subarticles 2.2, 6.1 and 6.2 and elsewhere in this Declaration, each Unit Owner shall, at his sole cost and expense maintain and repair his Unit and the Limited Common Elements allocated thereto (including windows and doors), keeping the same in good condition. Additionally, each Owner shall maintain, repair and replace as necessary any separate air-conditioning, cooling, heating and/or water-heating units (and all wires and connections therefor) which service his Unit, and further, the Owner shall repair any glass surfaces of a Unit which are damaged within seven (7) days of such damage. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his Condominium Unit. In the event an Owner fails to maintain his Unit as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify such Owner of the work required and request that it be done within thirty (30) days from the giving of such notice. In the event an Owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner and collect and enforce said Assessment as provided in Article 5 above.

11.6 Entry for Repairs

The Board or its agents may enter any Unit and any Limited Common Elements allocated thereto when necessary in connection with any repairs, maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made upon reasonable notice, unless it would be impractical to give notice in an emergency, and with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board at the expense of the Association. No Owner shall do any act or create any obstruction which would unreasonably interfere with the right or ability of the Association to perform any of its obligations or exercise any of its rights under this Declaration.

11.7 Insurance; Damage or Destruction

11.7.1 Reconstruction by Unit Owners

Subject to other provisions of this Declaration, in the event of damage to or destruction of any part of a Unit, the Owner shall reconstruct the same as soon as reasonably practicable and substantially in accordance with the original plans and specifications therefor. Each Owner shall have an easement of reasonable access into any adjacent Unit for purposes of repair or reconstruction of his Unit as provided in this Subarticle.

11.7.2. Association Liability Insurance

The Association shall obtain and continue in effect comprehensive public liability insurance insuring the Association, the Declarant, the agents and employees of each and the Owners and their respective family members, guests and invitees against any liability incident to the ownership or use of the Common Elements and facilities in the Recreational Common Elements, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of the negligence of other Owners or the Association. Such insurance shall be in amounts deemed appropriate by the Board.

11.7.3 Master Hazard Insurance

Additionally, the Association shall obtain and continue in effect a master or blanket policy of multi-peril insurance on the Project, providing at a minimum fire and extended coverage and all other coverage in the kinds and amounts as deemed appropriate by the board, said coverage to be obtained on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all improvements in the Project. Such policy shall contain extended coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, stipulated amount clause and a determinable cash adjustment clause or a similar clause to permit cash settlement covering the full value of the improvements in the Project in the event of destruction and a decision not to rebuild pursuant to this Declaration. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance on the Project shall be maintained in an amount equal to the aggregate outstanding principal balance of all Mortgage loans on the individual Condominium Units or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. Such policies shall be in form and amount as determined by the Board and shall name as the insured the Association, the Owners, Declarant (so long as Declarant is an Owner of any Condominium Units) and all Mortgagees as their respective interests may appear, and shall provide that any proceeds be paid to the Association for the use and benefit of the Owners and Mortgagees as their interests may appear. Such policy shall not be required to insure the personal property within any individual Unit, which insurance shall be the responsibility and risk of the Unit Owners.



#### 11.7.4 Additional Association Insurance

The Association may purchase such other insurance as it may deem necessary, including without limitation plate glass, workmen's compensation, directors liability and errors and omissions insurance, and may purchase fidelity coverage against dishonest acts by any directors, managers, trustees, employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association. The fidelity insurance shall name the Association as the insured and shall provide coverage in an amount not less than one and one-half (1-1/2) times the Association's estimated annual operating expenses and reserves.

#### 11.7.5 Choice of Carriers; Insurance Premiums

Insurance premiums shall be a Common Expense to be included in the Assessments levied by the Association, provided that the Association shall have the right, but not the obligation, to specially assess each Condominium Unit and the Owner thereof for all premiums for policies paid for by the Association attributable to custom-built items, additions or improvements in or to the Condominium Unit or any part thereof. The acquisition of insurance by the Association shall be without prejudice to the right of any Condominium Unit Owner to obtain additional individual insurance.

Neither the Declarant, the Association nor any officer or director thereof shall be liable to any Owner or other party if any risk or hazard is not covered by insurance or the amount is inadequate. Each Owner is responsible for ascertaining the Association's coverage and for procuring such additional coverage as such Owner deems necessary. First Mortgagees may pay overdue premiums and may secure new insurance coverage upon the lapse of any policy with respect to any insurance required to be maintained by the Association or by any Owner under this Declaration, and any First Mortgagee making such an expenditure shall be entitled to immediate reimbursement from the Association or Owner on whose behalf the expenditure was made.

#### 11.7.6 Proceeds from Insurance - For Partial Destruction

Unless prohibited by state or local health or safety statutes or ordinances, or unless eighty percent (80%) of the Unit Owners, including every Owner of a Unit (and every Owner entitled to the use of a Limited Common Element) which will not be rebuilt, vote not to rebuild any portion of the Project, if any of the Project improvements are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with original plans and specifications therefor. Unit Owners and lienholders shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the improvements in question have been completely repaired or restored (subject to an election not to rebuild as provided above) or the Project is terminated pursuant to Subarticle 11.14. Items added by Owners to their Units after the initial construction thereof shall be rebuilt or replaced at the expense of the Owners or their insurers to the extent insurance proceeds

payable to the Association are insufficient therefor. Any excess insurance proceeds shall be deposited to the general funds of the Association. In the event the proceeds of the Association's insurance policy are insufficient to rebuild or repair the damaged Project improvements (not including custom-built items for which individual Owners are responsible), then the Association may use funds from its general account or, if necessary, from levying a special Assessment on all Unit Owners to restore or rebuild said improvements. The Association's use of funds from its general account or levy of a special Assessment shall not constitute a waiver of the Association's or any Owner's right to institute any legal proceeding or suit against the Person or Persons responsible, purposely or negligently, for the damage.

11.7.6.1 Distribution of Proceeds; Reallocation of Unit's Interest

The insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed in proportion to their Common Interests to the Owners of those Units and Owners of the Units to which the Limited Common Elements were allocated, or to lienholders as their interests may appear. The remainder of the proceeds shall be distributed to all the Unit Owners or lienholders as their interests may appear in proportion to the Common Interests of all the Units. In the event the Project is terminated pursuant to Subarticle 11.14, the provisions contained therein shall govern distribution of insurance proceeds.

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If Unit Owners elect not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon such election with the same effect as if the Unit had been taken by condemnation or eminent domain pursuant to the provisions of Subarticle 11.8.

11.7.7 Insurance Policy Provisions

All property and liability insurance carried by the Association or the Owners shall contain provisions whereby:

11.7.7.1 Each Owner is an insured Person under the policy with respect to liability arising out of his interest in the Common Elements or Membership in the Association;

11.7.7.2 The insurer waives rights of subrogation as to the Association, officers, directors, Members and their household family members, guests, agents and employees;

11.7.7.3 No act or omission by a Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void any insurance policy obtained by the Association pursuant to this Subarticle 11.7 or be a condition to recovery under such policy;

11.7.7.4 Any policy obtained by the Association pursuant to this Subarticle 11.7 is primary to any other insurance in the name of a Unit Owner covering the same property covered by the Association's policy.

11.7.7.5 The insurer is required to notify First Mortgagees named in the mortgage clause at least thirty (30) days in advance of the effective date of any non-renewal, reduction in or cancellation of the policy.

11.7.7.6 An insurer shall not cancel or refuse to renew any policy until thirty (30) days after notice of cancellation or non-renewal has been mailed to each Unit Owner and each Mortgagee who has requested and has been issued a certificate or memorandum of insurance at their respective last known address.

Notwithstanding anything to the contrary herein, the provisions of Subarticle 11.7.7.5 and 11.7.7.6 apply to all insurance carried by the Association.

#### 11.7.8 Total Destruction

Unless the Project is terminated as provided in Subarticle 11.14, in the event the Property subject to this Declaration is in substance totally damaged or destroyed, the First Mortgagees shall receive timely notice thereof. The repair, reconstruction or disposition of the Property and insurance proceeds shall be as provided by an agreement approved by not less than sixty-seven percent (67%) of the votes of each class of Membership.

#### 11.8 Condemnation

##### 11.8.1 Procedure

Upon receipt of notice of intention or notice of proceedings whereby all or any part of the Project is to be taken by any governmental body by exercise of the power of condemnation or eminent domain, all Owners and First Mortgagees shall be immediately notified by the Association thereof. The Association shall represent the Owners in any condemnation or eminent domain proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of any part of the Project, and every Owner appoints the Association his/her attorney-in-fact for this purpose. The entire award made as compensation for such taking, including but not limited to any amount awarded as severance damages, or the entire amount received and paid in anticipation and settlement for such taking, after deducting therefrom, in each case, reasonable and necessary costs and expenses, including but not limited to attorneys' fees, appraisers' fees and court costs (which net amount shall hereinafter be referred to as the "Award"), shall be paid to the Association as trustee for the use and benefit of the Owners and their First Mortgagees as their interests may appear.

#### 11.8.2 Taking of Common Elements

If the portion of the Project taken or conveyed does not include all or any part of a Condominium Building, the Association shall, as it is practicable, cause the Award to be utilized for the purpose of repairing and restoring the Project, including, if the Association deems it necessary or desirable, the replacement of any improvements so taken or conveyed. Any portion of the Award attributable to the acquisition of a Limited Common Element shall be equally divided among the Owners of Units to which such Limited Common Element was allocated at the time of acquisition if not replaced as provided herein subject to the respective interests of First Mortgagee and other holders of liens encumbering the affected Units.

#### 11.8.3 Taking of Units

If the portion of the Project taken or conveyed is comprised of or includes all or any part of the Units in a Condominium Building, the Association, after its receipt of notice of the final amount of the Award, shall call a special meeting of the Members of the Association, with notice thereof to all First Mortgagees, to determine whether the parts of the Project taken shall be restored, reconstituted or replaced, and if so, in what manner. These matters, together with the use, disposition and distribution of the Award, shall be as provided by an agreement approved not by less than fifty-one percent (51%) of the votes of each class of membership. Condominium Unit Owners whose Units will be taken and not replaced shall be compensated for the fair market value of the Unit prior to the taking including that Unit's interest in the Common Elements and Limited Common Elements and shall be divested of all interest in the Project, and all remaining Condominium Unit Owners will automatically have their Allocated Interests in the reduced Project proportionately increased. The Association shall promptly prepare, execute and record an amendment to this Declaration reflecting such reallocations.

#### 11.8.4 Partial Taking of Units

In the case of Condominium Units Owners whose Units are partially taken and not replaced as provided above (which partial Unit may practically and lawfully be used for residential purposes) said Unit Owners shall be compensated for the reduction in the fair market value of the Unit prior to the taking including its interest in the Common Element and Limited Common Elements. Any such Unit's Allocated Interests shall be reduced proportionately based on reduction of size of the Unit and the Allocation Interests divested from the partially acquired Unit shall be automatically reallocated to that Unit and the other Units in the Project in proportion to the respective Allocated Interests of those Units before the taking, with the partially acquired Unit participating in the reallocation of the basis of its reduced Allocated Interests.

#### 11.8.5 Termination

If all of the Units are acquired by condemnation or eminent domain, the Project is terminated and the provisions of Subarticle 11.14 shall apply.

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11.9 Limitation of Restrictions on Declarant; Additional Restrictions on Declarant

Declarant is undertaking the work of construction of the Units and incidental improvements upon the Property. The completion of that work and the sale, rental and other disposal of the Condominium Units are essential to the establishment and welfare of the Project as a residential community. In order that said work may be completed and said Project be established as a fully occupied residential community as rapidly as possible, and, in addition to the right of Declarant reserved under Article 3 hereof, nothing in this Declaration shall be understood or construed to:

11.9.1 Prevent Declarant, its contractors or subcontractors from doing on the Project or any Unit whatever is reasonably necessary or advisable in connection with the completion of the work;

11.9.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Project such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said project as a residential community and disposing of the same in parcels by sale, lease or otherwise.

11.9.3 Prevent Declarant from conducting on any part of the Project its business of completing the work and of establishing a plan of Condominium Unit ownership and of disposing of said Project in Condominium Units by sale, lease or otherwise; or

11.9.4 Prevent Declarant from maintaining such sign or signs on any portion of the Project as may be necessary for the sale, lease or disposition thereof.

11.9.5 Prevent Declarant from exercising any other Development Rights or Special Rights reserved under Article 3.

So long as Declarant or its successors or assigns owns one or more of the Condominium Units established and described in this Declaration and, except as otherwise specifically provided herein, Declarant and its successors or assigns shall be subject to the provisions of this Declaration. Without limiting the further restrictions of Subarticle 4.1 hereof, Declarant shall not, and shall not have authority or power to, bind the Association prior to termination of Class B Membership, either directly or indirectly, to contracts or leases (including management contracts or contracts providing for services of the Declarant or any affiliate of Declarant) unless the Association is provided with a right of termination of any such contract or lease, without cause, which is exercisable without penalty or the payment of a termination fee at any time after the first Board of Directors elected after Class B Membership expires takes office upon not more than thirty (30) days' notice. Notwithstanding anything contained in this Subarticle 11.9 or elsewhere in this Declaration to the contrary, the foregoing restrictions shall not be construed to apply to or limit the Declarant's right to enter into (or the terms of) contracts or leases with providers of cable TV satellite communications services for the benefit of the Project.

11.10 Easement to Facilitate Exercise of Special Declarant Rights

Declarant shall have an easement over, upon, across and through the Common Elements for purposes of discharging or performing any obligations of the Declarant herein or under Arizona law or for purpose of exercising the Special Declarant Rights stated herein.

11.11 Transfer of Special Declarant Rights

In the event Declarant shall convey all of its right, title and interest in and to the Project to any partnership(s), individual(s) or corporation(s), Declarant may assign some or all of its Special Declarant Rights reserved or granted hereunder. No transfer of any Special Declarant Right shall be effective until an instrument evidencing such transfer is executed by Declarant as transferor and the transferee(s) and is recorded in the county in which the Project is located.

Upon Declarant's conveyance all of its right, title and interest in the Project without regard to whether Declarant has recorded an assignment of its Special Declarant Rights reserved hereunder, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership(s), individual(s), or corporation(s) shall be obligated to perform all such duties and obligations of the Declarant except as otherwise provided in the Arizona Condominium Act or other applicable law. Any such assignment of Special Declarant Rights shall be governed by the provisions of A.R.S. § 33-1244 of the Arizona Condominium Act as the same is amended from time to time.

11.12 Owner's Compliance

Each Owner, tenant or occupant of a Unit shall comply with the provisions of the Project Documents and all decisions and resolutions of the Association or its duly authorized representative(s), and failure to comply with any such provisions, decisions or resolution shall be grounds for an action to recover sums due, for damages (including costs and attorneys' fees) and/or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Bylaws shall be deemed to be binding on all Condominium Unit Owners, their successors and assigns.

11.13 Conflict of Project Documents

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail. Thereafter, priority shall be given to Project Documents in the following order: Map, Articles, Bylaws and rules and regulations of the Association.

11.14 Termination of Project

Notwithstanding any contrary provision of the Project Documents, this Project shall be terminated pursuant to the provisions of A.R.S. §33-1228 of the Arizona Condominium Act as the same may be amended from time to time. In the event there is no statutory scheme governing Condominiums, the Project shall be terminated as provided in the following two paragraphs.

The Association shall prepare a termination agreement ratified by the Owners of Units to which at least eighty percent (80%) of the votes in the Association are allocated, subject to any additional approvals required under Subarticle 11.2.1. The termination agreement shall specify a date after which the agreement will be void unless recorded before that date in the county in which the Project is located. The termination agreement may provide for the sale of the Common Elements and Units in the Project and in said event shall set forth the minimum terms of the sale. Any contract of sale of the Property in the Project shall be ratified by the Unit Owners in the same percentage as set forth above. In all such contract of sales, the Association shall act as trustee for the Unit Owners and the holder of all interest in the Units. Proceeds of any such sale shall be distributed to Unit Owners and lienholders as their interests may appear, in proportion to the respective interest of Unit Owners based upon the fair market value of the Units, Limited Common Elements, and Common Element interest immediately prior to termination as determined by an independent appraiser selected by the Association. The determination of the independent appraiser shall be distributed to the Unit Owners and becomes final unless disapproved by Unit Owners of Units to which fifty percent (50%) of the votes in the Association are allocated within thirty (30) days after distribution. The proportion of any Unit Owner's interest to that of all other Unit Owners is determined by dividing the fair market value of that Unit Owners Unit, Limited Common Elements and Common Interest by the total fair market value of all of the Units, Limited Common Elements and Common Elements. If any Unit or Limited Common Elements is/are destroyed to the extent that an appraisal of fair market value of the Unit or Limited Common Elements before destruction cannot be made, the interest of all Unit Owners shall be deemed to be their respective Common Interests immediately before the termination.

Unless otherwise specified in the termination agreement, as long as the Association holds title to the Property in the Project, each Unit Owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his Unit. During the period of that occupancy, each Unit Owner and his successors in interest remain liable for all Assessments and other obligations imposed on Unit Owners by this Declaration. If the Property is not to be sold following termination, title to all the Property in the Project vests in the Unit Owners on termination as tenants in common in proportion to their respective Common Interests as provided above and liens on the Unit shift accordingly. While the tenancy in common exists, each Unit Owner and his successors in interest have an exclusive right to occupancy as to the portion of the real estate that formerly constitute his Unit.

#### 11.15 Persons Entitled to Enforce Declaration

The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court, provided however, that an individual Owner shall have no right to enforce the collection of any Assessment levied against any other Owner under Article 5 above. Failure by any such Person to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

11.16 Remedies for Violation of Declaration

The following provisions are in addition to and not in lieu of any other terms and conditions contained in the Declaration relating to remedies, including but not limited to those contained in Subarticle 5.9.

11.16.1 Violation of any of the covenants, conditions or restrictions, the breach of any of the covenants or agreements contained herein or the breach of any rules and regulations promulgated by the Board, whether by an Owner or occupant of any Unit, shall enable the Association, acting through the Board or an authorized agent, to enter the Unit as to which said violation or breach may exist and summarily enforce such covenants, conditions, restrictions, agreements, rules and regulations and to abate and remove the thing or condition which may exist thereon contrary to the provisions hereof, at the sole expense of the Owner of said Unit, without being deemed guilty of having trespassed in any manner, provided, however, that an appropriate court order shall be required before any items of construction can be removed or altered.

11.16.2 In the event of any default by an Owner or occupant under the provisions of this Declaration, the Articles, the Bylaws or the rules and regulations of the Association, the Association, its successors and assigns, acting through the Board or an authorized agent, shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, the Bylaws and said rules and regulations or which may be available at law or in equity, including but not limited to an action for the appointment of a receiver for the Condominium Unit without regard to the value of such Condominium Unit or the solvency of such Owner, or for damages, injunction, specific performance or for a judgment for payment of money and collection thereof. Nothing contained in this Declaration shall preclude the Association, its agents, the Board, Declarant, an aggrieved Owner, a First Mortgagee or other Person having an interest in the Project from exercising any available remedy at law or in equity. All costs and attorneys' fees incurred by the Association in enforcing compliance with this Declaration (whether or not a lawsuit or other legal action is instituted or commenced) or in connection with any legal action or proceedings in connection with any default under this Declaration by an Owner or an occupant of any Condominium Unit and all damages, liquidated or otherwise, together with interest as provided in Subarticle 5.1, shall be charged to and paid by such defaulting Owner as provided in Subarticle 5.1. The Association, acting through the Board or its authorized agent, shall have the authority to correct any default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and paid by such defaulting Owner, and such charges shall be part of and be secured by the lien against the defaulting Owner's Condominium Unit as provided in Subarticle 5.1. Any amounts charged to an Owner of a Condominium Unit pursuant to this Subarticle 11.16 or Subarticle 5.1 or 5.9 shall be immediately due and payable upon notice to the Owner unless a specific due date is established therefor pursuant to this Declaration.



11.16.3 Anything to the contrary herein notwithstanding, any breach of any of the covenants, conditions, restrictions, reservations and servitudes provided for in this Declaration shall not defeat or adversely affect the lien of any First Mortgagee upon any Condominium Unit but, except as herein specifically provided, each and all of said covenants, conditions, restrictions, reservations and servitudes shall be binding upon and effective against any lessee or Owner of a Condominium Unit whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

#### 11.17 Waiver; Remedies Cumulative

No failure or delay on the part of any Person in exercising any right, power or privilege hereunder and no course of dealing between or among the Persons subject hereto shall operate as a waiver of any provision hereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not exclusive of any rights or remedies which any Person subject hereto would otherwise have. No notice to or demand upon any Person in any case shall entitle such Person to any other or further notice or demand in similar or other circumstances or constitute a waiver of rights to any other or further action in any circumstances.

#### 11.18 Judicial Proceedings

All Owners agree that any matter arising under this Declaration may be finally adjudged or determined in any court or courts of the State of Arizona or of the United States of America having jurisdiction in the State of Arizona, and such Owners hereby submit generally and unconditionally to the jurisdiction of such courts and of any of them in respect to any such matter, provided however, as to those matters to be submitted to arbitration pursuant to any provision hereof, such arbitration provisions shall be controlling and prevail. For the purpose of instituting or defending any action with respect to the Common Elements, or with respect to any matter affecting the Owners with respect to the Common Elements, and further in connection with enforcing this Declaration, the Articles, the Bylaws and any rules and regulations adopted pursuant to this Declaration, the Articles or the Bylaws, or in any other instance where the Board and/or the Members of the Association deem it is necessary for the best interest of the Project as a whole, the Association, acting by and through its Board, shall be deemed the real party in interest and is hereby authorized to commence and prosecute any such proceedings or to defend any such action. Nothing contained in this Subarticle 11.18 shall be deemed or construed to impose upon the Association, its Members or the Board any liabilities or obligations nor grant to any third party or parties any rights that any of said above-named parties would not otherwise have if this article were not contained herein.

#### 11.19 Governing Law

This Declaration and the rights and obligations of the parties hereunder shall be construed in accordance with and be governed by the laws of the State of Arizona.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 7 day of July, 1990.

DECLARANT:

CANYON BAY DEVELOPMENT CORPORATION  
a California corporation

By *R. S. Bhatia*

STATE OF CALIFORNIA )  
  )  
County of ORANGE )

On JULY 7, 1990, before me, the undersigned Notary Public in and for said county and state, appeared R. S. BHATHAL, PRESIDENT of Canyon Bay Development Corporation, for and on behalf of said corporation.

*Ling Lynn Chan*  
Notary Public

My Commission Expires:  
MARCH 4, 1994

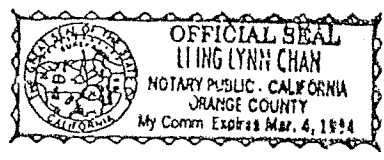
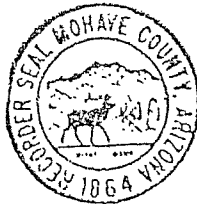


EXHIBIT 'A'

UNITS 101 THROUGH 138, 201 THROUGH 238, 301 THROUGH 338, 404 THROUGH 435, 508 THROUGH 531 AND COMMON AREA "A", QUEENS BAY RESORT CONDOMINIUMS, according to the plat of record in the office of the County Recorder of Mohave County, Arizona, recorded May 25, 1990 at Fee No. 90-35198.

When recorded, return to:



INDEXED

#92- 7713 BK 2007 PG 563  
OFFICIAL RECORDS OF MOHAVE COUNTY AZ.  
\*JDAN McCALL, MOHAVE COUNTY RECORDER\*  
02/13/92 2:30 P.M. PAGE 1 OF 2  
STATE TITLE  
RECORDING FEE 10.00

Ms. Sharon Peterson  
MAC LEAN & JACQUES, LTD.  
40 E. Virginia, #202  
Phoenix, AZ 85004

FIRST AMENDMENT TO  
DECLARATION OF QUEEN'S BAY RESORT CONDOMINIUMS

Mohave County, Arizona

On July 30, 1990, a Declaration of Queen's Bay Resort Condominiums ("Declaration") was filed in the office of the Mohave County Recorder by Canyon Bay Development Corporation ("Declarant"), at Reception No. 90-51947, Book 1763 page 273 for property as described on the plat recorded at Reception No. 90-5198, Mohave County, Arizona.

Declarant hereby, pursuant to Article 3, Subarticle 1.4 amends the Declaration as follows:

Article 8, Use Restrictions, Subarticle 8.8 entitled Right to Lease is amended to read:

8.8. Right to Lease

The respective Units shall not be rented by the Owners thereof for transient or hotel purposes which shall be defined as any rental if the occupants of the Unit are provided with customary hotel service such as room service for food and beverages, maid service, laundry and linen service and bellboy service. Subject to the foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Units, provided that the lease is in writing and is specifically made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the Bylaws and any reasonably rules and regulations published by the Association. Without limiting the generality of the foregoing, the Owner of any Unit occupied by a tenant and/or the tenant of any Unit so occupied shall pay any and all security deposits or deposits which may be required by rules or regulations adopted by the Board and published by the Association. Any Owner who leases his/her Unit shall provide a copy of the lease to the Association within ten (10) days of its execution. This provision shall in no way prevent Declarant's rights as provided under Article 3.



When recorded, return to:

Ms. Sharon Peterson  
MAC LEAN & JACQUES, LTD.  
40 E. Virginia, #202  
Phoenix, AZ 85004



#92- 17525 BK 2030 PG 987  
OFFICIAL RECORDS OF MOHAVE COUNTY AZ.  
\*JOAN McCALL, MOHAVE COUNTY RECORDER\*  
04/06/92 9:00 A.M. PAGE 1 OF 2  
STATE TITLE  
RECORDING FEE 10.00

SECOND AMENDMENT TO  
DECLARATION OF QUEEN'S BAY RESORT CONDOMINIUMS

Mohave County, Arizona

On July 30, 1990, a Declaration of Queen's Bay Resort Condominiums ("Declaration") was filed in the office of the Mohave County Recorder by Canyon Bay Development Corporation ("Declarant"), at Reception No. 90-51947, Book 1763 page 273, and amended at Reception No. 92-7713, Book 2007, page 563 on February 13, 1992, for property as described on the plat recorded at Reception No. 90-35198, Mohave County, Arizona.

Declarant hereby, pursuant to Article 3, Subarticle 3.1.4 amends the Declaration as follows:

Article 8, Use Restrictions, Subarticle 8.3 entitled Vehicle Restrictions is amended to read:

8.3. Vehicle Restrictions

No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pick up truck), inoperable automobile, boat or similar equipment shall be permitted to remain upon any area within the Project other than temporarily (for purposes of loading and unloading of passengers or personal property), except as provided for herein. Commercial vehicles shall not include sedans or standard size pick up trucks which are used for both business and personal use, provided that any signs or markings of a commercial nature on such vehicle shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the Property.

The designated recreational vehicle parking spaces are for the use of the Owners initially on a first come first serve basis. The Board of Directors may elect, at a later date, to make these spaces available by a drawing of names of Owners, or in addition, may elect to charge a fee for their use. No vehicle shall remain in these designed parking spaces for a period longer than thirty (30) days. At the end of the thirty (30)



DECLARATION

A plat was recorded in the Office of the Mohave County Recorder on May 25, 1990, Reception No. 90-35198 for the Queen's Bay Resort Condominiums. This document is being recorded to correct a scrivener's error in the Declaration. Reference to the sentence reading: "Title to the land of this subdivision shall be vested in an association of individual unit owners as established by the Covenants, Conditions and Restrictions as recorded in Docket 1763 at page 273 in the Office of the Mohave County Recorder.", shall be stricken in its entirety. In its place it shall read: "Title to the land of this subdivision shall be vested as established by the Declaration of Queen's Bay Resort Condominiums as recorded and may be amended from time to time in the Office of the Mohave County Recorder."

*Raj Bhathal*  
Raj Bhathal, President - CANYON BAY DEVELOPMENT CORPORATION

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

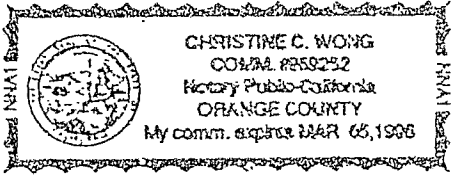
No.

State of CALIFORNIA  
County of ORANGE

On AUG. 27, 1993 before me, CHRISTINE C. WONG, NOTARY PUBLIC

personally appeared RAJ S. BHATHAL  
NAME(S) OF SIGNER(S)

personally known to me - OR -  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.

*Christine C. Wong*  
SIGNATURE OF NOTARY

OPTIONAL SECTION  
CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S)  
PRESIDENT  
TITLE(S)
- PARTNER(S)  LIMITED  GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

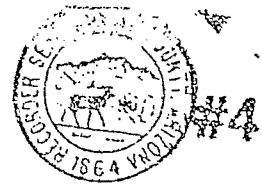
SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY(IES)  
CANYON BAY DEVELOPMENT CORPORATION

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

OPTIONAL SECTION  
TITLE OR TYPE OF DOCUMENT DECLARATION  
NUMBER OF PAGES 1 DATE OF DOCUMENT None  
SIGNER(S) OTHER THAN NAMED ABOVE \_\_\_\_\_

Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.

©1993 NATIONAL NOT



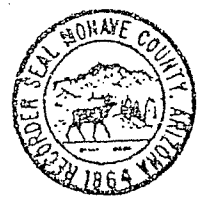
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#93- 49424 9K 2275 PG 29  
OFFICIAL RECORDS OF MOHAVE COUNTY AZ.  
\*JOAN McCALL, MOHAVE COUNTY RECORDER\*  
09/02/93 2:00 P.M. PAGE 1 OF 1  
STATE TITLE  
RECORDING FEE 9.00



13

#3

INDEXED



RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:

#93- 54617 BK 2284 PG  
OFFICIAL RECORDS OF MOHAVE COUNTY AZ  
\*JOAN McCALL, MOHAVE COUNTY RECORDER  
09/27/93 2:30 P.M. PAGE 1 OF 2  
STATE TITLE  
RECORDING FEE 28.00

JACKSON, DeMARCO & PECKENPAUGH (FSJ)  
4 Park Plaza, 16th Floor  
Post Office Box 19704  
Irvine, California 92713-9704

(Space Above for Recorder's Use)

THIRD AMENDMENT TO DECLARATION OF  
QUEEN'S BAY RESORT CONDOMINIUMS

This Third Amendment to Declaration of Queen's Bay Resort Condominiums is executed by CANYON BAY DEVELOPMENT CORPORATION, a California corporation ("Declarant").

P R E A M B L E:

A. On July 30, 1990, a Declaration of Queen's Bay Resort Condominiums was filed by Declarant at Reception No. 90-51947, Book 1763, Page 273 et seq., as amended by documents filed on February 13, 1992 at Reception No. 92-7713, Book 2007, Page 563 et seq., and on April 6, 1992, at Reception No. 92-17525, Book 2030, Page 987 et seq., all in the Office of the Mohave County Recorder (collectively, the "Declaration"). The Declaration encumbers the following described real property:

Units 101 through 138, 201 through 238, 301 through 338, 404 through 435, 508 through 531 and Common Area "A," Queen's Bay Resort Condominiums, according to the plat of record in the Office of the County Recorder of Mohave County, Arizona, recorded May 25, 1990 at Fee No. 90-35198.

B. Declarant desires to amend the Declaration pursuant to Article 3, Subarticles 3.1.4 and 3.1.5 thereof.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. Article 2, Subarticle 2.4 of the Declaration is hereby amended to read as follows:

The Common Elements shall remain undivided as set forth above. Subject to the terms and provisions of Subarticle 11.4.2 herein, no Owner shall bring any action for, or act to partition, subdivide or relocate the boundaries of a Condominium Unit or Time Share any Unit except as provided below. It being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. An Owner may bring an action for partition of the Project under any of the following circumstances:

(a) The Project has been damaged or destroyed so that a material part is rendered unusable for its prior use, the Project has not been rebuilt or repaired substantially to its state prior to the damage or destruction, and at least three (3) years have elapsed since the damage or destruction; or

(b) Three-fourths or more of the Project is destroyed or substantially damaged and Owners of Units holding in the aggregate more than a fifty percent (50%) interest in the Common Elements oppose repair or restoration of the Project; or

(c) The Project has been in existence more than fifty (50) years, is obsolete and uneconomic, and Owners of Units holding in the aggregate more than a fifty percent (50%) interest in the Common Elements oppose repair or restoration of the Project.

Judicial partition by sale of a single Condominium Unit owned by two or more Persons and division of the sale proceeds is not prohibited hereby (but partition of title to a single Condominium Unit is prohibited).

2. Article 3, Subarticles 3.1.1, 3.1.2 of the Declaration are hereby deleted in their entirety.

3. Article 3, Subarticle 3.1.4 of the Declaration is hereby amended to read as follows:

While Class B Membership exists, amend the Declaration to comply with applicable federal or Arizona state law or to correct any error or inconsistency in the Declaration, if the amendment does not adversely affect the rights of any Unit Owners.

4. Article 3, Subarticle 3.1.5 of the Declaration is hereby deleted in its entirety.

5. Article 3, Subarticle 3.2.2 of the Declaration is hereby amended to read as follows:

Exercise any Development Rights described in Subarticle 3.1 above.

6. Article 3, Subarticle 3.2.3 of the Declaration is hereby amended to read as follows:

While Declarant owns any Units, maintain sales offices, sales trailers, management offices, signs advertising the Project, and models at any location in the Common Elements, including in any clubhouse or recreational facility, or in any Unit owned by Declarant; provided, however, that Declarant shall (a) reimburse the Association for any increase in expenses incurred by the Association in connection with maintenance and reserves for Common Elements attributable to Declarant's use of the Common Elements in connection with Declarant's sales and marketing activities; and (b) not unreasonably interfere with the rights of use and enjoyment of the Common Elements by other Owners.

7. Article 3, Subarticle 3.2.5 of the Declaration is hereby deleted in its entirety.

8. Article 3, Subarticle 3.3 is hereby amended to read as follows:

Prior to exercising any Development Right, the Declarant shall prepare, execute and record an amendment to the Declaration referencing such right. Any such amendment shall require the approval of a majority of the voting power of the Association residing in Members other than Declarant. The Declarant may reserve Development Rights or Special Declarant Rights provided that such

reservation does not extend any time limit on the exercise of Development Rights set forth in Subarticle 3.1.

9. Article 3, Subarticle 3.3.1 of the Declaration is hereby deleted in its entirety.

10. Article 4, Subarticle 4.1 of the Declaration is hereby amended to read as follows:

The management of the Common Elements shall be vested in the Association in accordance with the Bylaws. The Owners of all the Condominium Units covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles and the Bylaws of the Association, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project. Any agreement for professional management of the Project or any agreement providing for services by Declarant (or any affiliate of Declarant) shall provide for termination by either party without cause or payment of a termination fee upon ninety (90) days' or less written notice or for cause upon thirty (30) days' or less written notice and without payment of a termination fee. Such agreement shall further provide for a reasonable contract term of from one (1) to three (3) years and be renewable only by consent of the Association and the other party.

Unless the vote or written assent of a majority of the voting power of the Association residing in Members other than Declarant is obtained, the Association shall not enter into any agreement with a third person whereunder the third person will furnish goods or services for the Common Elements or the Association for a term longer than one (1) year, except for the following:

4.1.1 A management contract, the terms of which have been approved by the Federal Housing Administration or the U.S. Department of Veterans Affairs.

4.1.2 A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

4.1.3 Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.

4.1.4 Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years' duration provided that the lessor under the agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

4.1.5 Agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five (5) years' duration provided that the supplier is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

4.1.6 Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services of not to exceed five (5) years' duration provided that the supplier or suppliers are not entities in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

11. Article 4, Subarticle 4.4.1 of the Declaration is hereby amended to read as follows:

Class A Membership shall be that held by each Owner of a Condominium Unit other than Declarant (while two classes of membership exist), and Class A Members shall be entitled to votes in the Association based upon one (1) vote for each Condominium Unit owned. If a Condominium Unit is owned by more than one (1) Person, each such Person shall be a Member of the Association but the Owners thereof

shall have no more than the allocated votes thereto.

12. Article 4, Subarticle 4.4.2 of the Declaration is hereby amended to read as follows:

Class B Membership shall be that held by Declarant (or its successors). The Class B Member shall be entitled to three (3) votes for each Condominium Unit which the Declarant owns. Notwithstanding the foregoing, Class B Membership shall be converted to Class A Membership on the occurrence of whichever of the following is first in time:

4.4.2.1 Close of escrow for the sale of seventy-five percent (75%) of the Units in the Project has occurred. For purposes of the conversion of Class B Membership under this Subarticle 4.4.2.1, the number of 170 Units in the Project shall be deemed to be the total Condominium Units, said 170 Units being the planned total of the Project.

4.4.2.2 The second anniversary of the first close of escrow for the sale of a Unit in the Project.

13. Article 4, Subarticle 4.5 of the Declaration is hereby amended to read as follows:

Any action by the Association which must have the approval of the Association Membership before being undertaken shall require the vote of Members holding fifty-one percent (51%) of the voting power of the Association present and voting at a duly called and held meeting of the Membership at which a quorum as prescribed herein or in the Bylaws has been constituted or the written assent of fifty-one percent (51%) of the Membership unless another percentage is specifically prescribed by a provision within this Declaration, the Bylaws or the Articles of the Association. So long as there exists a Class B Membership, an action that must have the approval of the Association Membership must be approved by members holding fifty-one percent (51%) of the Class A voting power present and voting at a duly called and held meeting, and by Members holding fifty-one percent (51%) of the Class B voting power present and voting at a duly

called and held meeting. After conversion of the Class B Membership to Class A Membership, an action that must have the approval of the Association Membership must be approved by fifty-one percent (51%) of the total voting power present and voting at a duly called and held meeting, and fifty-one percent (51%) of the total voting power present and voting at a duly called and held meeting, other than voting power attributable to Declarant.

14. Article 5, Subarticle 5.1 of the Declaration is hereby amended to read as follows:

Each Owner, including Declarant, of any Condominium Unit, by acceptance of a deed or recorded contract of sale therefor, whether or not it shall be so expressed in such document, is deemed to covenant and agree to pay to the Association (a) regular annual Assessments, (b) special Assessments for capital improvements and unexpected expenses and (c) other charges made or levied by the Association against the Owner or Condominium Unit pursuant to this Declaration or the Bylaws, including, but not limited to late charges for delinquent Assessments, such Assessments and charges to be established and collected as provided herein and in the Bylaws of the Association. A late charge of \$10.00 shall be assessed to the Owner in the event any Assessment is not paid within fifteen (15) days after the due date. Any part of any Assessment (or other amount due from the Owner to the Association, including interest and/or late charges) not paid within thirty (30) days after the due date for the Assessment established in this Article 5, Subarticle 11.6 or elsewhere in this Declaration shall bear interest at the rate of twelve percent (12%) per annum from the thirtieth (30th) day following the due date until paid. The annual and special Assessments and any other charge made against an Owner or a Condominium Unit pursuant to this Declaration or the Bylaws, together with interest, costs and reasonable attorneys' fees incurred by the Association in enforcing compliance with this Declaration (whether or not a lawsuit or other legal action is instituted or commenced) as provided in Subarticle 11.16.2, shall be a charge and

shall be secured by a continuing lien upon the Condominium Unit in favor of the Association as provided in A.R.S. §§33-1215(A)(10) and 33-1256 of the Arizona Condominium Act and this Declaration (hereinafter "Assessment Lien"). Each such Assessment and charge, together with interest, costs (including collection costs) and reasonable attorneys' fees as provided above, shall also be the personal obligation of the Person who was the Owner of such Condominium Unit at the time the Assessment or other charge fell due as provided in this Article 5, Subarticle 11.16 or elsewhere in this Declaration. The Assessment lien on each Condominium Unit shall be prior and superior to all other liens except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto and (b) the lien or charge of any First Mortgage on that Condominium Unit. No Owner of a Condominium Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by the Abandonment of his Condominium Unit.

15. Article 5, Subarticle 5.3 of the Declaration is hereby amended to read as follows:

The Board shall annually determine and fix the amount of the annual (calendar year) Assessment against each Condominium Unit, including those completed Units owned by Declarant and shall notify the Owner of each Condominium Unit in writing as to the amount of such annual Assessment not less than thirty (30) nor more than sixty (60) days prior to the date that such Assessment is to commence. Without the affirmative vote of Members casting a majority of each class of votes (or, if the Class B vote has terminated, a majority of votes attributable to declarant and a majority of votes attributable to non-Declarant Members) at a meeting or election of the Association described in Subarticle 5.5 and except as to the first annual Assessment, the annual Assessment may not exceed the annual Assessment for the immediately preceding fiscal year by more than twenty percent (20%). The annual Assessment may exceed the annual Assessment for the immediately preceding fis-



cal year by up to twenty percent (20%) if the Board has either (a) obtained the approval of Members casting a majority of votes at a meeting or election described in Subarticle 5.5, or (b) distributed a budget containing the following information to the Members for the current fiscal year not less than forty-five (45) nor more than sixty (60) days prior to the beginning of the fiscal year:

(a) The estimated revenue and expenses of the Association on an accrual basis.

(b) A summary of the Association's reserves based upon the most recent review or study described in Subarticle 5.3.1, which shall be printed in bold type and include all of the following:

(1) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.

(2) As of the end of the fiscal year for which the study is prepared:

(i) The current amount of cash reserves necessary to repair, replace, restore, or maintain major components ("Estimated Reserves").

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components ("Actual Reserves").

(3) The percentage that the Actual Reserves is of the Estimated Reserves.

(c) A statement as to whether the Board has determined or anticipates that the levy of one or more special Assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefore.

(d) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or addition to

those major components that the Association is obligated to maintain.

All annual Assessments shall be payable in twelve (12) equal monthly installments. Notwithstanding the foregoing, the full amount of the Assessment is a lien from the time the first installment of the Assessment becomes due. In the year prior to January 1 of the year immediately following the close of escrow on the sale of the first Condominium Unit in the Project, the maximum annual Assessment per Condominium Unit shall be \$1,080.00. The annual Assessment shall be prorated based on the number of months remaining before January 1 of such year, as well as any partial months remaining.

16. The Declaration is hereby amended by adding the following thereto as Subarticle 5.3.1:

5.3.1 Reserve Study. At least once every three (3) years the Board shall cause a study of the reserve account requirements of the Project to be conducted if the current replacement value of the major components which the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half (1/2) of the gross budget of the Association for any fiscal year. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.

The study required by this subdivision shall at a minimum include:

(a) Identification of the major components 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 components identified in Paragraph (a) as of the date of the study.

(c) An estimate of the cost of repair, replacement, restoration, or maintenance of each major component identified in Paragraph (a) during and at the end of its useful life.

(d) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain each major component during and at the end of its useful life, after subtracting total reserve funds as of the date of the study.

As used in this Subarticle, "reserve accounts" means moneys that the Board has identified for use to defray the future repair or replacement of, or additions to, those major components which the Association is obligated to maintain. As used in this Subarticle, "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace, or restore those major components which the Association is obligated to maintain.

17. Article 5, Subarticle 5.4 of the Declaration is hereby amended to read as follows:

In addition to the regular annual Assessments authorized above, the Board may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common elements, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense normally covered by a regular Assessment and for any deficiency caused in whole or in part by delinquent Assessments, provided however, that no such special Assessment shall be made if, in the aggregate, they exceed five percent (5%) of the Association's budgeted gross expenses for that fiscal year without the approval of a majority of Class A Members and a majority of Class B Members (or, if the Class B Membership has terminated, a majority of non-Declarant Members and Declarant)

represented at a meeting or election described in Subarticle 5.5.

18. Article 5, Subarticle 5.5 of the Declaration is hereby amended to read as follows:

Written notice of any meeting called for the purpose of taking any action authorized under Subarticles 5.3 or 5.4 shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members or proxies therefor at the beginning of the meeting entitled to cast fifty percent (50%) of all of the votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be the same as at the first meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting unless notice is given to all Members entitled to vote at the adjourned meeting.

19. Article 5, Subarticle 5.6 of the Declaration is hereby amended to read as follows:

The Owners of each Condominium Unit, including those Units owned by Declarant, shall pay regular and special Assessments on an equal basis. Notwithstanding the foregoing, no Owner (including Declarant) shall be required to pay those portions of any Assessments levied for the purpose of defraying expenses and reserves directly attributable to the existence and use of structural improvements, including without limitation, roof replacement, exterior maintenance, walkway and carport lighting, refuse disposal, cable television and domestic water supplied to living units, until the first to occur of the following with respect to such improvements: (a) recordation of a notice of completion with respect to such improvement; (b) occupation or use of the dwelling unit; or (c) completion of all elements of the residential structure which the Association is obligated to maintain. It is further provided, the Declarant shall be obligated to pay any deficiency in the ability of the Association

to pay all Common Expenses up to the amount of the full assessment for any such Unit. Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element or Common Elements benefiting fewer than all of the Units shall be assessed to all of the Units in the Project in the same manner as allocation of the Common Expenses incurred in connection with any other portion of the Common Elements, unless such Common Expense results from damage or destruction to the Limited Common Elements by any Unit Owner for which such Unit Owner is responsible as provided in Subarticle 8.11. Assessments to pay a judgment against the Association may be made only against the units in the Project at the time the judgment is entered in proportion to their Common Expense liabilities. If Common Expense liabilities are reallocated, any Common Expense assessments or installments thereof not yet due shall be recalculated in accordance with the reallocated Common Expenses liabilities.

20. Article 5, Subarticle 5.8 of the Declaration is hereby amended to read as follows:

~~The sale or transfer of any Condominium~~  
Unit shall not affect the Assessment lien or liability for Assessments due and payable except as provided below. No sale or transfer of a Condominium Unit shall relieve such Condominium Unit from liability for any Assessments thereafter becoming due or from the lien therefor. Where, however, the First Mortgagee of a First Mortgage of record or another Person obtains title to a Condominium Unit as a result of foreclosure or trustee's sale of any such First Mortgage, such First Mortgagee or other Person shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Condominium Unit which became due prior to the acquisition of title to such Condominium Unit by such First Mortgagee or other Person, and the Assessment lien therefor on such Condominium Unit shall be extinguished. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectable from all the Condominium Units. In a voluntary conveyance of a Condominium Unit, the grantee of the same

shall not be personally liable for Assessments or any other charges due to the Association in connection with that Condominium Unit which accrued prior to the conveyance unless liability therefor is specifically assumed by the grantee. The Association shall, within twenty (20) days after receipt of a written request from a lienholder, Unit Owner, or Person designated by a Unit Owner, provide a statement in recordable form setting for the amount of unpaid Assessment due the Association against any Unit. Such statement shall be binding upon the Association, the Board and every Unit Owner.

21. Article 8, Subarticle 8.8 of the Declaration is hereby amended to read as follows:

The respective Units shall not be rented by the Owners thereof for transient or hotel purposes which shall be defined as any rental (a) for a period of less than seven (7) days, or (b) if the occupants of the Unit are provided with customary hotel service such as room service for food and beverages, maid service, laundry and linen service and bellboy service. Subject to the foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Units, provided that the lease is in writing and is specifically made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the Bylaws and any reasonable rules and regulations published by the Association. Without limiting the generality of the foregoing, the Owner of any Unit occupied by a tenant and/or the tenant of any Unit so occupied shall pay any and all security deposits or deposits which may be required by rules or regulations adopted by the Board and published by the Association. Any Owner who leases his/her Unit shall provide a copy of the lease to the Association within ten (10) days of its execution. This provision shall in no way prevent Declarant's rights as provided under Article 3.

22. Article 9, Subarticle 9.3.2 of the Declaration is hereby amended to read as follows:

Declarant may appoint all of the original and replacement members of the Committee until the first anniversary of the first close of escrow for the sale of a Unit in the Project and after such first anniversary, may appoint and replace a majority of the members of the Committee until the first to occur of (a) the fifth anniversary of the issuance of a Final Subdivision Public Report for the Project by the California Department of Real Estate, or (b) close of escrow has occurred for the sale of ninety percent (90%) of the Units in the Project. The Board shall have the power to appoint replacements for or remove and replace any or all of the members of the Committee which Declarant is not entitled to appoint. Subject to the above-described right and power of the Board and Declarant to remove and replace members of the Committee, Committee members or replacements appointed by the Board shall serve one (1) year terms.

23. Article 11, Subarticle 11.2 of the Declaration is hereby amended to read as follows:

Subject to the standards set forth in any applicable laws, regulations or ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project and the rights of the Owners and First Mortgagees provided herein, and except as specifically provided elsewhere in this Declaration, this Declaration may be amended only by (a) the vote or written assent of Unit Owners to which sixty-seven percent (67%) of the votes in the Association are allocated and the consent of Declarant while Class B Membership exists, and (b) the vote or written assent of both (i) Unit Owners to which sixty-seven percent (67%) of the votes in the Association are allocated and (ii) Unit Owners to which sixty-seven percent (67%) of the votes not attributable to Declarant-owned Units are allocated; provided, however, that the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. The requirement of Subarticle 11.2.1 and any restriction set

forth concerning the amendment of certain provisions of the Project Documents shall be in addition to the requirements set forth in this Subarticle 11.2. Within thirty (30) days after the adoption of any amendment pursuant to this Subarticle, the President of the Association shall prepare, execute and record a written instrument setting forth the amendment adopted whereupon such amendment shall become effective. Without limiting the generality of the foregoing, and except as expressly permitted by the Arizona Condominium Act and Subarticle 3.1, an amendment shall not create additional or increase existing Special Declarant Rights, increase the number of Units or change the boundaries of any Unit, the Allocated interests of any Unit or the permitted uses thereof, without the consent of all of the Unit Owners. No amendment shall terminate or decrease any unexpired Development Right, Special Declarant Right or period of Declarant Control without the consent of Declarant.

24. Article 11, Subarticle 11.2.1.1 of the Declaration is hereby amended to read as follows:

The consent of Owners of Condominium Units to which at least eighty percent (80%) of the votes in the Association are allocated shall be required to terminate the legal status of the Project as Condominiums under Arizona law. When Owners are considering termination of the legal status of the Project for reasons other than substantial destruction or condemnation of the Project, first Mortgagees who have requested the Association to notify them of any proposed action requiring the consent of a specified percentage of such first Mortgagees and who represent at least sixty-seven percent (67%) of the votes of the mortgaged Units must agree.

25. The Declaration is hereby amended by adding the following thereto as Subarticle 11.2.1.2:

11.2.1.2 Mortgagee Approval of Certain Amendments. Notwithstanding any other provision of this Declaration, in addition to the required assent of Owners as provided above, amendments of a material nature must be approved by at least fifty-one percent (51%) of first Mortgagees who have requested the Association



to notify them of proposed action requiring the consent of a specified percentage of such first Mortgagees. For purposes of the foregoing, a change to any of the following would be considered "material":

- (a) Voting rights;
  - (b) Assessments, assessment liens or the priority of assessment liens;
  - (c) Reserve for maintenance, repair and replacement of Common Elements;
  - (d) Responsibility for maintenance and repair;
  - (e) Reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use;
  - (f) Redefinition of Unit boundaries;
  - (g) Convertibility of Units into Common Elements or vice versa;
  - (h) Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
- 
- (i) Insurance or fidelity bonds;
  - (j) Leasing of Units;
  - (k) Imposition of any restrictions on an Owner's right to sell or transfer his or her Unit;
  - (l) A decision by the Association to establish self-management when professional management had been required previously by the Declaration or by a first Mortgagee;
  - (m) Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Declaration;

(n) Any action terminating the legal status of the Project after substantial destruction or condemnation occurs; or

(o) Any provisions that expressly benefit Mortgagees, insurers or guarantors of mortgages.

Any such first Mortgagee who fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal sent by certified or registered mail, return receipt requested, shall be deemed to have approved such amendment or request.

26. Article 11, Subarticle 11.4.3 of the Declaration is hereby amended to read as follows:

The Association shall make available to Owners, first Mortgagees, insurers or guarantors of first Mortgagees current copies of the Declaration, Articles, Bylaws, Rules of the Association and the books, records and financial statements of the Association. "Available" means available for inspection (and copying at the expense of the requesting party), upon request, during normal business hours or under other reasonable circumstances. The Association shall provide an audited statement for the preceding fiscal year if a first Mortgagee, insurer or guarantor of any first Mortgage submits a written request therefor.

27. The Declaration is hereby amended by adding the following thereto as Subarticle 11.4.4:

11.4.4 Special Mortgagee Notices. Any Mortgagee, insurer or guarantor of a Mortgage who submits a written request to the Association stating its name, address, and the unit number or address of the Units on which it holds, insures or guarantees the Mortgage, shall be entitled to receive timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its Mortgage;

(b) Any delinquency of sixty (60) days in the payment of Assessments or charges owed by the Owner of any Unit on which it holds the Mortgage;

(c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) Any proposed action that requires the consent of a specified percentage of first Mortgagees who have requested notification of such actions.

28. Article 11, Subarticle 11.7.3 of the Declaration is hereby amended to read as follows:

Additionally, the Association shall obtain and continue in effect a master or blanket policy of multi-peril insurance on the Project, providing at a minimum fire and extended coverage and all other coverage in the kinds and amounts as deemed appropriate by the board, said coverage to be obtained on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all improvements in the Project. Such policy shall contain extended coverage and replacement cost endorsements, if available, and may also contain vandalism and malicious mischief coverage, stipulated amount clause and a determinable cash adjustment clause or a similar clause to permit cash settlement covering the full value of the improvements in the Project in the event of destruction and a decision not to rebuild pursuant to this Declaration. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance on the Project shall be maintained in an amount equal to the aggregate outstanding principal balance of all Mortgage loans on the individual Condominium Units or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. Such policies shall be in form and amount as determined by the Board and shall name as the insured the Association, the Owners, Declarant (so long as Declarant is an Owner of any Condominium

Units) and all Mortgagees as their respective interests may appear, and shall provide that any proceeds be paid to the Association for the use and benefit of the Owners and Mortgagees as their interests may appear. Such policy shall not be required to insure the personal property within any individual Unit, which insurance shall be the responsibility and risk of the Unit Owners. In addition to the foregoing, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bond coverage meeting the insurance and fidelity bond requirements for condominium projects established by the Federal National Mortgage Association ("FNMA"), so long as FNMA is a Mortgagee or Owner of a Condominium within the Project, except to the extent such coverage is not available or has been waived in writing by FNMA.

29. Article 11, Subsection 11.7.6 of the Declaration is hereby amended to read as follows:

Unless prohibited by state or local health or safety statutes or ordinances, or unless eighty percent (80%) of the Unit Owners, including every Owner of a Unit (and every Owner entitled to the use of a Limited Common Element) which will not be rebuilt, vote not to rebuild any portion of the Project, if any of the Project improvements are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with original plans and specifications therefor. Unit Owners and lienholders shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the improvements in question have been completely repaired or restored (subject to an election not to rebuild as provided above) or the Project is terminated pursuant to Subarticle 11.14. Items added by Owners to their Units after the initial construction thereof shall be rebuilt or replaced at the expense of the Owners or their insurers to the extent insurance proceeds payable to the Association are insufficient therefor. Any excess insurance proceeds shall be deposited to the general funds of the Association. In

the event the proceeds of the Association's insurance policy are insufficient to rebuild or repair the damaged Project improvements (not including custom-built items for which individual Owners are responsible), then the Association may use funds from its general account or, if necessary, from levying a special Assessment on all Unit Owners to restore or rebuild said Improvements. Such special Assessment shall be levied on the basis of the ratio of the square footage floor area of the Unit to be assessed to the total square footage of the floor area of all Units to be assessed. The Association's use of funds from its general account or levy of a special Assessment shall not constitute a waiver of the Association's or any Owner's right to institute any legal proceeding or suit against the Person or Persons responsible, purposely or negligently, for the damage.

30. Article 11, Subarticle 11.7.8 of the Declaration is hereby amended to read as follows:

Unless the project is terminated as provided in Subarticle 11.14, in the event the Property subject to this Declaration is in substance totally damaged or destroyed, the First Mortgagees shall receive timely notice thereof. The repair, reconstruction or disposition of the Property and insurance proceeds shall be as provided by an agreement approved by not less than sixty-seven percent (67%) of the votes of each class of Membership. After conversion of the Class B membership to Class A Membership, such agreement must be approved by not less than sixty-seven percent (67%) of the voting power of the Association residing in Members other than Declarant.

31. Article 11, Subarticle 11.8.3 of the Declaration is hereby amended to read as follows:

If the portion of the Project taken or conveyed is comprised of or includes all or any part of the Units in a Condominium Building, the Association, after its receipt of notice of the final amount of the Award, shall call a special meeting of the Members of the Association, with notice thereof to all First

Mortgagees, to determine whether the parts of the Project taken shall be restored, reconstituted or replaced, and if so, in what manner. These matters, together with the use, disposition and distribution of the Award, shall be as provided by an agreement approved by not less than fifty-one percent (51%) of the votes of each Class of Membership. After conversion of the Class B Membership to Class A Membership, such agreement must be approved by fifty-one percent (51%) of the voting power of the Association and fifty-one percent (51%) of the voting power of the Association residing in Members other than Declarant. Condominium Unit Owners whose Units will be taken and not replaced shall be compensated for the fair market value of the Unit prior to the taking including that Unit's interest in the Common Elements and Limited Common Elements and shall be divested of all interest in the Project, and all remaining Condominium Unit Owners will automatically have their Allocated Interests in the reduced Project proportionately increased. The Association shall promptly prepare, execute and record an amendment to this Declaration reflecting such reallocations.

This Third Amendment has been executed by Declarant on this 23 day of Sept, 1993.

CANYON BAY DEVELOPMENT CORPORATION, a California corporation

By:  - President

Its: \_\_\_\_\_

"Declarant"

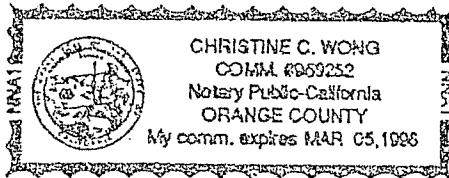
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On SEPT. 23, 1993, before me, CHRISTINE C. WONG, NOTARY PUBLIC, personally appeared RAJ S. BIATHAL and \_\_\_\_\_, personally known to me (~~or 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.

Christine C. Wong  
Notary Public in and for said State

(SEAL)

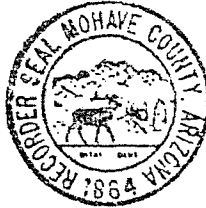


STATE TITLE COMPANY, INC.

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TIME SHARE DECLARATION QUEEN'S BAY RESORT CONDOMINIUM

Mohave County, Arizona



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TIME SHARE DECLARATION QUEEN'S BAY RESORT CONDOMINIUM

Mohave County, Arizona

ARTICLE I

DECLARATION

This Time Share Declaration for Queen's Bay Resort Condominiums (hereinafter referred to as the "Time Share Declaration") supplements that certain Condominium Declaration for the Queen's Bay Resort Condominium ("Condominium Declaration"). This Queen's Bay Resort Condominium Declaration is recorded in the Office of the Mohave County Recorder contemporaneously, with the Condominium Declaration.

Canyon Bay Development Corporation, a California corporation, herein referred to as the "Declarant", is the owner of the Condominium Units described in said Condominium Declaration. Except as herein specifically supplemented or modified, the provisions of the Condominium Declaration shall remain unchanged and in full force and effect. The provisions of this Time Share Declaration shall, however, supplement said ~~Condominium Declaration as same relates to the Condominium Units~~ which are subjected to this Time Share Declaration as provided in Article 3, Paragraph 2.

Declarant hereby makes and declares the following limitations, restrictions and uses upon the said Units described above, which have become subject to this Time Share Declaration as covenants running with the Units and binding upon each owner or purchaser from the Declarant, its successors, and assigns so long as this Time Share Declaration shall remain in effect.

It is the intent and purpose of the Declarant to arrange for the time sharing into intervals of weekly use of the above described Units. Consequently, purchasers may acquire an ownership interest in a specific Unit by and through the provisions of this Time Share Declaration. together with the right to use a Unit, though not necessarily the same unit in which an ownership is acquired, during the time share interval use season designated in the purchase contract or deed, all as provided for in this Time Share Declaration.

ARTICLE 2

DEFINITIONS

As used in this Time Share Declaration, the words and terms listed below shall have the following meanings:

1. Allocable Share of Percentage of Interest: The percentage of interest in a Unit which each Owner shall have for each weekly interval owned is 1/52nd. Each Owner shall have, for each weekly interval owned, a 1/52nd interest in the Common Elements.

2. Common Property: The furniture, fixtures and other personal property contained in a Unit shall be owned by each owner of that Unit in the Percentage of Interest such Owner shall have in the Unit as provided above.

3. Condominium: The Condominium Units in Queen's Bay Resort Condominiums.

4. Condominium Association: The Queen's Bay Resort Condominium Association, Inc., also referred to as "Condominium Association", as provided for in the Declaration for Queen's Bay Resort Condominiums. Owners of a time shared Unit, as a group and acting through the Time Share Association, are a member of the Condominium Association. In addition, the Owners of time share interests in each Unit, which is subject to this Time Share Declaration, shall belong to the Queen's Bay Resort Time Share Association.

5. Declarant: Canyon Bay Development Corporation and their designated in writing successors and assigns.

6. Declaration: The Condominium Declaration for Queen's Bay Resort Condominiums, as referred to on the initial page of this Time Share Declaration and any supplements or amendments thereto. All of the terms and provisions of the Declaration are incorporated therein by this reference as supplemented or modified by this Time Share Declaration.

7. Interval (Time Share) Ownership Period or Periods: The Ownership Period specified in a time share deed as the period of time during which the Owners of the time share periods shall have the exclusive use right of a Unit within a season.

8. Interval (time share) Week or Weeks: The individual, separate weeks which shall be the periods of time or intervals in which the Units submitted to this Time Share Declaration have been divided through the filing of this Time Share Declaration. The year has been broken down into fifty-two (52) consecutively numbered Interval Weeks. Interval Week No. One (1)

is a seven-day period commencing at 12:00 noon on the first Friday of the week in which January 1 falls each year and ending at 12:00 noon on the following Friday. Interval Week No. Two (2) is the seven-day period following at the same time provided for Week No. One (1), with the following fifty (50) weeks computed in a similar manner. Each week of ownership represents a 1/52nd interest in the whole Unit. One week shall be conveyed to the Time Share Association as a Maintenance Week. A purchaser or owner may buy a single week or any combination of weeks as set forth in his/her purchase documentation and deed.

9. Majority in Interest in a Time Shared Condominium Unit: The Owners of a Unit whose intervals of use have an aggregate percentage of interest in excess of 50% of the total of all of the percentages of interest in such Unit, excluding the Maintenance Week owned by the Time Share Association.

10. Owner: Any person or organization which owns by deed or is a purchaser under a contract for deed an interval interest in a Unit.

11. Permitted User: Any person using a Unit with the permission of the Owner, including, but not limited to, family members, invitees, users and the like.

12. Property: The property subjected to this Time Share Declaration as described in Article I above.

13. Purchase Agreement: The Agreement by which Declarant has sold an Owner an Interval (Time Share) Week or Week(s).

14. Season: A period of time within a calendar year as identified on Exhibit "A".

15. Time Share Association: The Queen's Bay Resort Condominium Time Share Association, Inc., of which each Owner is a member.

16. Time Share Board of Directors: The Board of Directors of the Time Share Association ("Board") as elected by a majority vote of the Owners as provided for in this Time Share Declaration, the Articles of Incorporation, and the Bylaws of the Time Share Association.

17. Time Share or Time Shared Unit: Any Unit which pursuant to Article 3, Paragraph 2 is conveyed or designated for Interval Week use.

18. Unit: A Condominium Unit, inclusive of the common elements, as described in the Declaration and in which an Owner shall have an ownership interest.

### ARTICLE 3

#### OWNERSHIP AND USE PERIODS

1. An Owner shall be entitled to the exclusive possession and occupancy of a Unit for a Time Share Week(s) during the season identified in the Purchase Agreement. No Owner shall have the right whatsoever to occupy a particular Unit nor any particular time during the season designated on Owner's purchase agreement, except pursuant to a reservation accepted by or on behalf of the Time Share Association. Said reservation shall be in accordance with the Time Share Association Rules and Regulations.

2. It is anticipated that not all of the Units are to be time shared. The Declarant retains the exclusive right, from time to time, to designate a specific Unit or Units to be time shared and which are to be subject to this Time Share Declaration. In order for a particular Unit to be subject to this Time Share Declaration, a deed, contract or other form of conveyance of an Interval Week or Weeks from Declarant (or its agent or trustee) to a time share purchaser or otherwise designated by an instrument in writing executed by Declarant, must be recorded in the Office of the Mohave County Recorder. Once such a conveyance is recorded, then the particular Unit so described shall be deemed to be a Time Share Unit and shall in all respects be subject to this Time Share Declaration. Any Units not so designated, as provided above, shall not be subject to this Time Share Declaration.

### ARTICLE 4

#### PROPERTY RIGHTS

Each Time Share Owner under this Time Share Declaration shall have the right to use during his or her Interval Use Period the Common Elements which are appurtenant to and appropriate to the use of the Time Share Units included under this Time Share Declaration. Such right to use and possess said Common Elements shall include the right to access and ingress and egress, and shall be subject to all of the easements, covenants, conditions, restrictions and other provisions included in the Declaration, this Time Share Declaration, the Articles and Bylaws of the Condominium Association and the Time Share Association and the Rules and Regulations promulgated pursuant to this Time Share Declaration. Such rights of use and enjoyment of the Common Elements are non-exclusive to any particular Unit or Time Share Owner. It is a condition to the right to occupy a Unit or use the Common Elements, that the Owner of the Unit be current in his/her obligations under this Time Share Declaration, as well as any purchase price obligation owed Declarant and/or other lien holder.

ARTICLE 5

PERMITTED USES

1. Each Unit shall be used in accordance with the provisions of this Time Share Declaration only.

2. In addition to the provisions of the Declaration, the following provisions shall apply additionally to the Time Share Units and where inconsistent or more restrictive the provisions of this Time Share Declaration shall prevail:

(a) All uses shall be in accordance with the Declaration, this Time Share Declaration, the applicable Bylaws and Rules and Regulations.

(b) No pets shall be allowed at any time in time shared Units.

(c) During an Owner's Interval Week(s), each Owner shall keep his/her occupied Unit in the same good order and condition as when he/she took possession thereof, loss by fire, acts of God, and ordinary wear and tear excepted. No Owner shall make or authorize any alterations, additions or improvements to the Unit or any of its furniture or furnishings.

(d) All repairs to a Unit required in order to maintain the Unit shall be made by the Condominium Association (e.g. exterior maintenance) or Time Share Association (e.g. interior maintenance). No Owner shall make such repairs.

(e) No signs of any kind shall be allowed.

(f) While an Owner may allow others as Permitted Users to use a Time Share Unit for the purposes permitted by this Time Share Declaration during his/her interval(s) of use, each Owner shall be responsible for any loss, damage or destruction which occurs during any period when the Unit is used by others as if such Owner was occupying the Unit himself/herself.

(g) No Unit or Interval Week may be further time shared except by Declarant.

(h) The lease term requirements as set forth in the Declaration shall not be applicable to Time Share Units.

3. Each Owner shall indemnify and hold the other Owners harmless against any loss, damage or claim arising out of his/her breach of the provisions of this Article.

ARTICLE 6

FAILURE TO VACATE

If any Owner or Permitted User fails to vacate a Unit at the end of his/her Interval Ownership Period(s), or otherwise uses or occupies a Unit during a period of use assigned to another Owner, or prevents another Owner from using or occupying a Unit during such other Owner's interval(s) then the using, occupying or preventing Owner, shall be subject to the following at the sole discretion of the Time Share Association.

1. The Time Share Association may terminate utility services to the Unit.

2. The Owner and his/her personal effects shall be subject to immediate removal, eviction or ejection from the Unit wrongfully occupied.

3. The Owner shall be deemed to have waived any notices required by law with respect to any legal proceedings requiring the removal, eviction or ejection of such occupancy, to the extent that such notices may be waived by law.

4. The Owners shall reimburse the Time Share Association and the party entitled to use the Unit during such wrongful occupancy for all costs and expenses, including, but not limited to travel costs, costs of alternative accommodations, court costs and reasonable attorneys' fees, incurred in connection with removing, evicting or ejecting the defaulting Owner from such Unit.

5. The Owner shall be prohibited from subsequent use until all damages incurred are paid in full.

6. In addition to the other remedies provided for in this Article 6, the Owner shall pay to the party entitled to the use of the Unit during such wrongful occupancy, as liquidated damages for the wrongful use of the Unit, a sum equal to 200% of the fair rental value per day (but in no event less than \$250 per day) of the Unit wrongfully occupied, for each day or portion thereof including the day of surrender, during which the defaulting Owner wrongfully occupies the Unit. If an Owner by his/her negligence renders a Unit uninhabitable by the user, the provisions of Article 6, Paragraph 4 above, shall apply and the negligent Owner shall be liable to the subsequent Owners as if the negligent Owner had refused to vacate. For purposes of this Article 6, the act of a Permitted User shall be deemed to be the act of the Owner.

7. The Time Share Association may enforce any sums due under Article 6 pursuant to the lien and assessment procedures under Article 8.



ARTICLE 7

TIME SHARE ASSOCIATION

1. Time Share Association Purpose: It is desirable for the efficient management of the Property and the preservation of the value, desirability and attractiveness of the Property to create a corporation to which shall be delegated and assigned the powers of managing the time shared Units, maintaining, cleaning, furnishing, and providing maid service, linens, dishes and utensils for the Units and administering and enforcing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to assessments and charges hereinafter created and referred to and to perform such other acts as shall generally benefit said Property included within this Time Share Declaration.

2. Condominium Association: As to time shared Units, the Time Share Association, through its representatives, on behalf of the Time Share Unit Owners, as a group, shall act as a member of the Condominium Association, as if the Time Share Association were the Owner of the time shared Units. The main purpose of the Condominium Association is the maintenance of the exteriors of the buildings in which the Units are located, along with maintenance of the Common Elements which include the driveways and parking areas. Each Unit shall be obligated to pay assessments validly levied by the Condominium Association. ~~The assessments provided for in this Time Share Declaration for~~ time shared Units shall be in addition thereto, and shall be paid for by the Time Share Association. The Time Share dues and assessments payable by an Owner, shall be inclusive of the dues and assessments of the Condominium Association.

3. Time Share Association Formation: In furtherance of the purposes set forth in this Time Share Declaration, the Declarant shall cause the Time Share Association to be incorporated, through which the Owners shall act as members, each Owner being automatically a member as long as he/she is an Owner.

4. Powers of the Time Share Association Board: The Time Share Association shall operate through its Board of Directors ("Board").

(a) The Board shall be empowered to enforce and determine and decide questions regarding enforcement of this Time Share Declaration.

(b) The Board shall have the right to contract for services or to transfer to any other corporation, person or partnership, all or any part of its functions hereunder.

(c) The Board (or its Manager when appointed) shall attend to as part of its function, but not in limitation thereof: processing of reservations; check-in and check-out procedures; causing each Unit to be maintained in a first class manner and condition and make provisions for maid service; preparing the budget of operating costs of each year and billing all assessments provided for under this Time Share Declaration; providing for insurance and payment thereof; payment of property taxes and assessments; arranging for the appropriate repairs, replacements and maintenance; arranging for alternate accommodations in the event a Unit is uninhabitable; employing managers and agents, provided that any such employment contract, subject to renewals, shall not exceed one year in term, and to pay for such services rendered. Nothing therein shall preclude Declarant or its agents from being retained, provided any such compensation paid to Declarant or its agents shall be competitive in amount for comparable services rendered by independent third parties.

(d) The Board shall have the right of entry to any Unit in the event of an emergency originating in or threatening the Unit, whether the Owner is present or not.

(e) In addition to any specific powers and duties set forth in this Time Share Declaration, the Board shall have the authority in general to carry out its purposes.

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5. Liability of Board: ~~Neither the Board in whole or its individual members shall incur liability to any Owner for its good faith acts or omissions.~~

6. Time of Annual Meetings: The first annual meeting shall be held within thirteen (13) months of the conveyance of the first Interval Unit to an Owner. Subsequent annual meetings shall be held on the first Monday following each anniversary date of the first annual meeting. The members at any annual meeting may change the next succeeding annual meeting date(s) without an amendment to this Time Share Declaration.

7. Special Meetings: Special meetings and the conducting of all meetings shall be as set forth in the Time Share Declaration.

8. Voting: Each Unit shall have a total of 51 votes, one vote for each Weekly Interval. One Weekly Interval, which shall be nonvoting, shall be owned by the Time Share Association as a Maintenance Week pursuant to Article 9, Paragraph 2.

COVENANT FOR ASSESSMENTS

1. Personal Obligation of Assessments: Each Owner of a Interval Ownership Period by acceptance of an instrument of conveyance or transfer, whether or not it shall be so expressed in such instrument, is deemed to covenant and agree to pay to the Time Share Association: (a) The Assessments payable to the Condominium Association, on a pro-rata basis of 1/51st of said total assessments for each Weekly Interval owned, and (b) Annual (General) assessments for utilities, insurance, maintenance, management and other general expenses relating to the time shared Units, including, but not limited to, refurbishing and furnishing replacement expenses, and (c) Special assessments for capital improvements relating to the time share Units, if any, and (d) Individual assessments for special expenses incurred because of the acts or omissions for which the Owner of a time shared Unit is individually responsible. The above assessments and any late payment penalties which may be levied by the Association for non-payment on time, together with interest, costs and reasonable attorneys' fees, shall be a lien upon the Owners' interest in a Unit and shall also be the personal obligation of the Owner at the time the assessment was levied. The personal obligation for delinquent assessments shall not pass to successors in title, unless expressly assumed by them.

2. Purpose of Assessments; Budget; Books and Records: The assessments levied by the Board shall be used exclusively to promote the recreation, health, safety and welfare of all Owners, the improvement and interior maintenance of the time shared Units, and Common Property which are for the exclusive use of the Time Share Owners and their guests. The purpose of the assessments shall include, but not be limited to, management fees, insurance premiums, assessments due the Condominium Association, expenses for maintenance repairs and replacements of the Common Property, renovation, repair, redecorating and refurbishing of the Units; reserves for contingencies; charges for all utilities for the Units and taxes, costs of enforcement of this Time Share Declaration, the Declaration and the Time Share and Condominium Articles, Bylaws and Rules and Regulations as, from time to time, amended.

(a) The Board shall establish and maintain a reserve fund for replacements by the allocation and payment annually to such reserve fund of an amount to be designated from time to time by the Board. Such fund shall be deposited in a special account with a federally insured depository, and may be in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by the United States of America. The reserve fund is for the purpose of effecting replacement or repair because of damage, depreciation, obsolescence and normal wear and tear.

(b) The Board shall prepare and adopt an estimated annual budget for each fiscal year of the Time Share Association. Such budget shall take into account the estimated expenses and cash requirements of the Time Share Association for the year. The annual budget shall also take into account the estimated net available cash income for the years, if any, from the operation or use of any of the Common Property. The annual budget shall provide for a reserve for contingencies for the year (and for subsequent fiscal years) and a reserve for replacements (provided for in (a) above), all in such reasonably adequate amounts as shall be determined by the Board. The Board shall cause a copy of the budget and a statement of the amount of the assessments to be levied against each Interval Week for the following fiscal year to be delivered or mailed to each Owner not later than sixty (60) days following the meeting of the Board at which such budget shall have been adopted.

(c) The books and records of the Time Share Association shall be available for inspection by any Owner at the office of the Time Share Association during normal business hours, at such times as the offices are open.

3. Uniform Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for each Unit included within this Time Share Declaration, and for each Weekly Interval (except for Individual assessments) being responsible for 1/51st of the assessments for each Unit. The assessment shall be collected on an annual basis or on such other reasonable basis as may be set by the Board. Unless the Board otherwise designates, the assessments shall be due on the first day of the calendar year.

4. Date of Commencement of Annual Assessments: The annual assessment for each Interval shall commence as to that Unit on the first day following the entering into of the purchase contract for such Interval Week by an individual Owner.

5. Declarant's Assessment: Declarant shall pay no assessment for any time shared Unit owned, except that during such time as any such unsold Interval Week is inhabited for the benefit of the Declarant, the Declarant shall pay full assessments or Declarant may furnish services and management in lieu of assessments in a reasonably equivalent amount.

6. Maximum Assessment: Until January 1 of the year immediately following the conveyance by Declarant of the first Interval Week to an Owner, the maximum annual assessment shall be \$195.00 for each Interval Week owned.

(a) From and after January of the first year immediately following the conveyance of the first Interval Week to any Owner, the maximum Annual Assessments may be increased each year, without a vote of the membership, above the maximum assessments for the previous year in a percentage equal to the percent of increase during the preceding twelve (12) months in the Consumer Price Index for that region within which the State of Arizona is located as determined by the United States Department of Labor, Bureau of Labor Statistics, plus five percent (5%). In the event the Consumer Price Index is discontinued, the Board shall select an appropriate economic indicator.

(b) From and after January 1 of the year immediately following the conveyance of the first Interval Unit to an Owner, the Owners may increase the maximum Annual Assessment above the amount set forth in Paragraph (a) by a vote of more than fifty percent (50%) of all votes eligible to be cast.

(c) In the event an Owner owes any Annual Assessment, one or more Special Assessments, one or more Individual Assessments, telephone utility bills, or any combination of the foregoing, any monies paid by that Owner shall be applied in the following order of priority: telephone bills, Individual Assessments, Special Assessments, and Annual Assessments. If an Owner owed more than one obligation in a single category, the obligation within that category shall be paid in order of age, beginning with the oldest.

7. Individual Assessments: The Time Share Association is empowered, through its Board to levy against any particular Owner or Owners an Individual Assessment or charge for all costs, expenses, fees and charges incurred by the Time Share Association by reason of a breach on the part of such Owner or Owners, the Owner's guests, or family members of any of the provisions of this Time Share Declaration, the Bylaws of the Time Share Association or of the Time Share Rules and Regulations to which the Owners are subject. Such Individual Assessments shall include, but not necessarily be limited to, all charges incurred by reason of the failure of any particular Owner or Owners, or person or persons occupying a Unit with the consent and knowledge of the Owner, to vacate the same at the conclusion of the Interval Week or weeks, at 10:00 a.m. local time on the day which concludes the reserved time; all costs of damage, breakage or loss of any of the furnishings, fixtures, appliances, utensils, linens or other Common Property beyond wear or tear; all damage, breakage or loss to any of the interior or exterior walls, windows or other surfaces of a Unit or Building attributable to such Owners or Owners; or person or persons occupying the Unit with the knowledge and consent of such Owner or Owners; and any other costs and expenses incurred by the Time Share Association which are attributable to the failure of the Owner or Owners to comply with the provisions hereof.

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8. Failure to Pay Assessments; Remedies: Any assessment, or any installment of an Assessment, not paid within five (5) days after the Assessment, or the installment of the Assessment, first becomes due shall bear interest from the due date at the rate of interest established from time to time by the Board in accordance with Paragraph 10 below. Any Assessment, or any installment of an Assessment which is delinquent, shall become a continuing lien on the interest of the Owner in the Unit against which such Assessment was made. The lien shall be perfected by the recordation of a "Notice of Claim of Lien" which shall set forth (1) the name of the delinquent Owner as shown on the records of the Association, (2) the legal description or street address and the Interval Week(s) against which the claim of lien is made, (3) the amount claimed as of the date of the recording of the notice including interest, lien recording fees and reasonable attorneys' fees, (4) the name and address of the Time Share Association. The Time Share Association's lien shall have priority over all liens or claims created subsequent to the recordation of the Notice of Claim of Lien, except for tax liens for real property taxes on the Unit, assessments on any Unit in favor of any municipal or other governmental body and the liens which are specifically described below in Paragraph 9 below.

Before recording a lien against any Interval Week(s) in a Unit the Time Share Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments together with interest, reasonable attorneys' fees and all costs incurred by the Time Share Association in collecting, or attempting to collect, such Assessments, whether or not a lawsuit is filed. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, the Time Share Association may proceed with recording a Notice of Claim of Lien against the Lot of the defaulting Owner. The Time Share Association shall not be obligated to release any lien recorded pursuant to this section until all delinquent Assessments, interest, lien fees and reasonable attorneys' fees have been paid in full whether or not all of such amounts are set forth in the Notice of Claim of Lien.

The Time Share Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Time Share Association in any manner allowed by law including, but not limited to, (a) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving any lien securing any such delinquent Assessments or (b) bringing an action to foreclose its lien against the Unit in the manner provided by law for the foreclosure of a realty mortgage or deed of trust, or other manner allowed by law, as elected by

the Time Share Association. The Time Share 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.

9. Status of Assessment Lien Subordination: The lien for assessments provided for herein shall be subordinate to the lien of a lender who holds a valid first lien obligation against the Property included within the provisions of this Time Share Declaration or any individual Interval Week(s). Subject to this subordination, the sale or transfer of a Interval shall not affect either the assessment lien provided for herein nor the creation and enforcement thereof in accordance with this Time Share Declaration because of delinquent assessments, whether such assessments become due prior to, on or after the date of such sale or transfer, and regardless of whether or not the Owner is personally obligated as provided for in this Time Share Declaration to pay any or all of the delinquent assessments as to which such lien is created.

10. Rate of Interest: All monies owed to the Association shall bear interest from the due date until paid at 20% per annum interest or such other higher rate of interest as may be from time to time set by the Board that is not in excess of the prime rate in effect as of the date of the delinquency as set by the Chase Manhattan Bank, New York, plus 5 points, or the reasonable equivalent standard thereto; provided, in no event shall the interest charged or payable exceed the limits set by any applicable usury laws.

## ARTICLE 9

### CLEANING PERIOD AND MAINTENANCE WEEK

1. Although the Owner's ownership period starts at 12:00 noon, all Owners must allow for the cleanup of the Unit to make it ready for occupancy and there is, therefore, a "check-in" time of 4:00 p.m. on the first day of Owner's use.

An Owner must check with the Board or its Manager if he/she wishes to occupy a Unit prior to the check-in time of 4:00 p.m. on the first day of the use period. Unless such permission is granted, the Unit may not be occupied until 4:00 p.m. Similarly, each Owner must vacate the Unit no later than 10:00 a.m. on the last day of his/her use period, the "check-out" time, unless permission is granted to stay beyond that time. This period between the check-out of one use period and the check-in time of the next use period shall be used for maintenance and cleaning and shall be referred to as the "Cleaning and Inventory Period".

2. The Declarant has set aside one (1) week of the year which shall be designated as the Maintenance Week. Such week shall be used by the Board for the annual refurbishing, repaid, remodeling or replacements as shall be necessary to

adequately repair the Unit. The Maintenance Week shall not be sold to an Owner but shall be conveyed to the Time Share Association. The conveyance to the Time Share Association of the Maintenance Week shall be not later than the conveying to individual Owners of each of the fifty-one (51) Interval Weeks in a Unit. Prior to conveyance of the Maintenance Week, Declarant shall retain all rights incident to ownership, including but not limited to voting rights. The Maintenance Week shall not be subject to assessments, shall have no voting rights associated with it and shall be disregarded in computing the obligation to pay assessments, and the right to received benefits from insurance and condemnation.

3. The Board shall have the right during the Cleaning and Inventory Period and during the Maintenance Week and at any other reasonable time when a Unit is not occupied, to enter the Unit for the purpose of cleaning, maid service, painting, maintenance and repair. The Board shall keep a master key to all of the Units to facilitate such entry.

4. It is recognized that in some years there will be a 53rd week. When such 53rd week occurs, same shall belong to Declarant, with Declarant reserving the right to convey same to the Time Share Association on the same terms and conditions as for a Maintenance Week.

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#### ARTICLE 10

##### ATTORNEY IN FACT

Each Owner by his/her acceptance of the deed or other conveyance vesting in him/her an interest in a Unit does hereby constitute and appoint the Board or the Board's designated agent, acting from time to time with full power of substitution, as Owner's true and lawful attorney, coupled with an interest, to:

(a) Negotiate and consummate on behalf of such Owner damage or destruction of any personal property in a Unit, and

(b) To enter into any agreements appropriate to the carrying out of the responsibilities of the Time Share Association and the Board as set forth herein.

#### ARTICLE 11

##### FURNITURE AND FURNISHINGS

1. Each Unit shall be provided with quality furniture and furnishings. A list of the specific major items to be provided to a particular Unit shall be given to each Owner.



The Board shall be responsible for keeping each Time Shared Unit in a first class manner substantially in accordance with the list provided each Owner, and shall be authorized to replace or repair any furniture or furnishings which are missing, which become unusable or which become so worn as to require replacement in the reasonable judgment of the Board. Except in cases where such furniture or furnishings must be replaced due to the negligent or intentional act of any Owner, his/her family or the Owner's guests, which determination shall be made by the Board in its reasonable judgment, the expenses of replacing or repairing such furniture or furnishings shall be a general operating costs, with all costs thereof shared equally by all other Owners, payable through the assessments set by the Board.

2. At each cleaning period the Board shall inspect the Unit and shall determine whether there are any items of furniture or furnishings which need to be replaced or repaired, and if so, whether such replacement or repair is the responsibility of the Owner during whose use period such repair or replacement becomes necessary, and whether such loss or damage to such furniture or personal property has been caused by negligent or overt acts of an Owner, or his/her Permitted Users, in which case the costs of replacement or repair shall be assessed to and paid by such Owner. The Board shall notify any Owner promptly if Owner is to be charged for any items of furniture or furnishings which need to be replaced or repaired. Though the cost of such replacement or repairs are subject to payment or reimbursement by the Owner, such costs shall be advanced by the Board so that the replacement or repairs may be immediately effected. Such advancement by the Board shall not in any fashion alleviate the Owner from any responsibility to pay for the repair or replacement.

## ARTICLE 12

### CONDEMNATION, DAMAGE OR DESTRUCTION

In the case of condemnation, damage or destruction to the Time Share Estate, the Board shall collect the proceeds (insurance or otherwise) payable on account of such condemnation, damage or destruction (as attorney-in-fact of the Owners) and, unless the project is not to be rebuilt or repaired, shall apply the proceeds to replace or repair damaged or destroyed property, with any condemnation proceeds being collected by the Time Share Association to be disbursed to those Owners not having use of their Units, or for the benefit of all Owners if all are in general affected by the condemnation. If any such funds are required in order to replace or repair such personal property, such excess shall be a general operating expense. If the proceeds exceed the cost of repair or replacement, such excess shall be placed in the account of the Time Share Association. Each Owner shall be solely responsible for his/her personal effects and any insurance coverage thereof. As to condemnation, damage or destruction of the Units themselves, or the Common Elements, the provisions of the Declaration shall apply.

ARTICLE 13

TERMINATION

If the Property included within this Time Share Declaration after damage, destruction or for any other reason ceases to be subject to the Time Share Declaration, the Board shall be entitled to receive as attorney-in-fact for the Owners of all such affected Units, all sums payable to such Owners under the Time Share Declaration. Such sums shall be collected by the Board and divided among such Interval Owners and paid into separate accounts on the basis of each Owner's allocable share, one share for each Weekly Interval owned. The funds in each account (without contribution from one account to another) shall be applied by the Board for the following purposes in the order indicated:

a. For payment of the balance of any first liens, mortgage or deed of trust on the interest of the Owner.

b. For payment of unpaid Annual, Special or Individual assessments or operating costs attributable to the interest of the Owner.

c. For payment of junior liens and encumbrances in the order and to the extent of their priority with respect to the interest of the Owner.

d. The balance remaining, if any, shall be paid to the Owner.

The provisions of this paragraph shall not be construed as limiting in any way the right of a first lien holder (in case the proceeds allocated under (a) shall be insufficient to pay the indebtedness secured by its lien) to assess and enforce the personal liability for such deficiency of the person or persons responsible for payment of such indebtedness.

ARTICLE 14

AMENDMENT OR REVOCATION

This Time Share Declaration may be amended or revoked:

(a) By the Declarant at any time prior to the recording of the first time share deed, and thereafter.

(b) Upon written approval, duly acknowledged, and recorded in the Office of the Mohave County Recorder of 80% of the Time Share Owners and all first lien holders and Declarant, if Declarant retains any interest in a Unit or proceeds payable to Declarant therefrom. Notwithstanding this provision, except as expressly permitted or required by law, no amendment shall

create or increase Declarant's rights, increase the number of Units, or change the boundaries of any Unit, or the time share interests within a Unit or the uses to which any Unit is restricted without unanimous consent of all Owners.

#### ARTICLE 15

##### USE BY OTHERS

In the event an Owner exchanges his/her Interval Week(s) or otherwise allows others to use his/her Interval Week(s), the Owner shall be responsible for any damage caused by others.

#### ARTICLE 16

##### RENTAL OF UNSOLD TIME SHARE UNITS BY DECLARANT

Declarant hereby reserves the exclusive right to occupy and rent to the general public each unsold Interval Week. Any rentals received by Declarant shall inure to its benefit, and if, and for so long as Declarant, or any entity owned or controlled by Declarant, or under common management and control with Declarant, as the managing agent. Any damage or destruction which occurs during the rental of such Unit pursuant to this Article 17 shall be the responsibility of Declarant.

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#### ARTICLE 17

##### REGISTRATION OF MAILING ADDRESS

Each Owner shall (and any first lien holder may) register his/her mailing address from time to time with the Board, and except for periodic statements, meeting notices or routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. The initial address indicated on Owner's purchase documentation shall be the address for all notices, unless a subsequent advice of change in writing is received by the Board. Any notices sent to the address as provided above shall be deemed received by Owner even though he/she has subsequently changed addresses and failed to notify the Board in writing of such change.

#### ARTICLE 18

##### RULES AND REGULATIONS

The Time Share Association Board may, from time to time, establish Rules and Regulations in furtherance of this Time Share Declaration, which Rules and Regulations shall be enforceable in the same manner as this Time Share Declaration.

ARTICLE 19

WAIVER OF RIGHT TO PARTITION

Each Owner agrees to waive and hereby waives for the duration of the effective period of this Time Share Declaration for as long as the same shall remain in force and effect, any and all rights which he/she may now have or which hereafter may be given to the Owner by the laws of the State of Arizona to cause a partition of the Unit, or any personal property therein, or any Condominium Common Elements and Common Property.

ARTICLE 20

LIMITATION ON GENERAL USAGE

Unless otherwise provided by contract or other documentation allowing for alternative use, no Owner may occupy a Unit or use any Condominium Common Elements and Common Property other than during his/her Interval Period of Use.

ARTICLE 21

SEPARATE MORTGAGES

Each Owner shall have the right to mortgage or otherwise encumber his/her interest in his/her Unit. No Owner shall have the right to mortgage or otherwise encumber in any manner ~~whatsoever the interest of any other Owner in such Unit nor shall~~ any lien incurred or suffered by an Owner affect more than the Owner's interest. Any mortgage, deed of trust, trust indenture or other encumbrance of any interest in a Unit shall be subordinate to all of the provisions of this Time Share Declaration and in the event of foreclosure, the provisions of this Agreement shall be binding upon any Owner whose title is derived through foreclosure by private powers of sale or judicial foreclosure, or deed in lieu of foreclosure.

ARTICLE 22

SUCCESSORS

Each Owner shall be fully discharged and relieved of the liability on the covenants of this Agreement insofar as the same relate to his/her interest in a Unit upon ceasing to own any interest therein and paying all sums and performing all obligations in respect of such interest to the time his/her ownership is terminated. Provided, nothing herein shall be construed to waive any liability of an Owner under a lien, mortgage or deed of trust incurred or suffered by an Owner.

ARTICLE 23

ENFORCEMENT

The Time Share Association and Declarant shall have the full power and right to enforce this Time Share Declaration, and



BOB	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
BOB	FRI TO FRI	FRI TO FRI	FRI TO FRI	FRI TO FRI	FRI TO FRI	FRI TO FRI	FRI TO FRI	FRI TO FRI	FRI TO FRI	FRI TO FRI
1A	1/01-1/08	1/06-1/13	1/05-1/12	1/04-1/11	1/03-1/10	1/01-1/08	1/07-1/14	1/06-1/13	1/05-1/12	1/03-1/10
2	1/08-1/15	1/13-1/20	1/12-1/19	1/11-1/18	1/10-1/17	1/08-1/15	1/14-1/21	1/13-1/20	1/12-1/19	1/10-1/17
3	1/15-1/22	1/20-1/27	1/19-1/26	1/18-1/25	1/17-1/24	1/15-1/22	1/21-1/28	1/20-1/27	1/19-1/26	1/17-1/24
4	1/22-1/29	1/27-2/03	1/26-2/02	1/25-2/01	1/24-1/31	1/22-1/29	1/28-2/04	1/27-2/03	1/26-2/02	1/24-1/31
5	1/29-2/05	2/03-2/10	2/02-2/09	2/01-2/08	1/31-2/07	1/29-2/05	2/04-2/11	2/03-2/10	2/02-2/09	1/31-2/07
6	2/05-2/12	2/10-2/17	2/09-2/16	2/08-2/15	2/07-2/14	2/05-2/12	2/11-2/18	2/10-2/17	2/09-2/16	2/07-2/14
7	2/12-2/19	2/17-2/24	2/16-2/23	2/15-2/22	2/14-2/21	2/12-2/19	2/18-2/25	2/17-2/24	2/16-2/23	2/14-2/21
8	2/19-2/26	2/24-3/01	2/23-3/01	2/22-3/01	2/21-2/28	2/19-2/26	2/25-3/02	2/24-3/01	2/23-3/01	2/21-2/28
9	2/26-3/04	3/03-3/10	3/02-3/09	3/01-3/08	2/28-3/06	2/26-3/03	3/02-3/09	3/01-3/08	2/25-3/02	2/23-3/01
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12	3/18-3/25	3/24-4/01	3/23-3/30	3/22-3/29	3/20-3/27	3/18-3/25	3/24-4/01	3/23-3/30	3/22-3/29	3/20-3/27
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15	4/15-4/22	4/21-4/28	4/20-4/27	4/19-4/26	4/17-4/24	4/15-4/22	4/21-4/28	4/20-4/27	4/19-4/26	4/17-4/24
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63	3/19-3/26	3/24-4/01	3/23-3/30	3/22-3/29	3/20-3/27	3/19-3/26	3/24-4/01	3/23-3/30	3/22-3/29	3/20-3/27
64	3/26-4/02	4/01-4/08	4/00-4/07	3/29-4/05	3/27-4/03	3/26-4/02	4/01-4/08	4/00-4/07	3/29-4/05	3/27-4/03
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72	5/21-5/28	5/27-6/03	5/26-6/02	5/25-6/01	5/23-6/00	5/21-5/28	5/27			



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RESCISSION OF THIRD AMENDMENT TO  
DECLARATION OF QUEENS BAY RESORT CONDOMINIUMS  
Mohave County, Arizona

On July 30, 1990 a Declaration of Queens Bay Resort Condominiums ("Declaration") was filed in the office of the Mohave County Recorder by Canyon Bay Development Corporation ("Declarant") at Book 1763, page 273, and amended at Book 2007, page 563, and amended at Book 2030, page 987, and amended at Book 2275, page 292, and amended in Book 2286, page 332, Official Records, Mohave County.

Declarant hereby, pursuant to Article 3, Subarticle 3.1.4 hereby revokes and rescinds in its entirety the amendment to the Declaration which is recorded in Book 2286, page 332.

The original Declaration and all other amendments to the Declaration shall remain in full force and effect.

Dated this 11<sup>th</sup> day of August, 1995.

DECLARANT:  
CANYON BAY DEVELOPMENT CORPORATION  
By: [Signature]

STATE OF CALIFORNIA )  
County of Maricopa ) ss.

On August 11, 1995, before me, the undersigned notary public in and for said County and State, appeared Raj Bhathal, President of CANYON BAY DEVELOPMENT CORPORATION, for and on behalf of said corporation.

[Signature]

