

REQUEST OF: CITY OF FLAGSTAFF

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT
WAS FILED FOR RECORD IN COCONINO COUNTY,
STATE OF ARIZONA



HELEN I. HUDGENS
COCONINO COUNTY RECORDER

FEE NO. 906 33.00
DOCKET 1013 PAGE 451-515
JAN 17 1985 -11 15
DATE

DECLARATION OF HORIZONTAL PROPERTY REGIME
AND OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COUNTRY HILLS WEST CONDOMINIUM

THIS DECLARATION is made and entered into as of
this 16 day of January, 1985, by DAVID A.
CHANCE and JEAN CHANCE, dba CHANCE CONSTRUCTION CO., an
Arizona sole proprietorship, hereinafter referred to as
"Declarant."

WHEREAS, Declarant is the owner of that certain
real property (the "Parcel") in the County of Coconino,
State of Arizona, to-wit:

Apartment 101 through 104 & 201 through
204, inclusive, COUNTRY HILLS WEST,
according to a Horizontal Property
Regime Map recorded in the Office of the
Coconino County Recorder in Case _____,
Map 4, at Pages 37, 329, 378, together with
37, 329, 378
the Common Elements included in the
legal description shown on Exhibit "A"
attached hereto and incorporated herein
by reference.

WHEREAS, Declarant desires to submit and subject
the above described property (hereinafter sometimes called
"Parcel"), together with all buildings, improvements and
other permanent fixtures of whatsoever kind now or hereafter
located thereon, and all rights and privileges belonging or
in anywise pertaining thereto (hereinafter sometimes called
the "Property") to a horizontal property regime pursuant
to Sections 33-551 through 33-561, Arizona Revised Statutes,
and as same may be amended; and

WHEREAS, Declarant desires to establish for its
own benefit and for the mutual benefit of all future owners
or occupants of the Property, or any part thereof, certain
easements and rights in, over and upon said premises and
certain mutually beneficial restrictions and obligations
with respect to the proper use, conduct and maintenance
thereof; and

WHEREAS, Declarant desires and intends that the
owners, mortgages, beneficiaries and trustees under trust
deeds, occupants and all other persons hereinafter acquiring
any interest in the Property shall at all times enjoy the
benefits of, and shall hold their interests subject to the
rights, easements, privileges and restrictions hereinafter
set forth, all of which are declared to be in furtherance of
a plan to promote and protect the Property and are

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established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

NOW, THEREFORE, Declarant, for the purposes above set forth, declares as follows:

1. Submission of Property. Declarant hereby submits and subjects the Property to a Horizontal property regime pursuant to Sections 33-551 through 33-561, Arizona Revised Statutes, and does hereby declare that all of the Units shall be owned, leased, sold and conveyed subject to the terms, conditions and other provisions of this Declaration.

Subject to the provisions of Paragraphs 4 through 4.8 below, Declarant hereby creates on the Property referred to above, a condominium known as COUNTRY HILLS WEST CONDOMINIUM in accordance with a portion of that Horizontal Regime Map (hereinafter referred to as the "Plat") referred to in Paragraph 3.24 below.

2. Name. The name of this Horizontal Property Regime shall be COUNTRY HILLS WEST CONDOMINIUM.

3. Definitions. As used herein, unless the context otherwise requires:

3.1 "Act" means Section 33-551 through Section 33-561, Arizona Revised Statutes.

3.2 "Apartment" means a part of the Property consisting of one or more rooms (excluding the patio or balcony, storage area, if any, and any areas of exclusive use appurtenant to each Apartment) designated by number and letter as shown on the Plat. Each Apartment is located in one of the Buildings shown on the Plat and is composed of and includes the space enclosed and bounded by the interior finished surfaces of the floor, ceiling and perimeter walls thereof; provided, however, no structural parts of the Building in which each Apartment is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within an Apartment and forming part of any system serving one or more other Apartments or the Common Elements shall be deemed to be part of any Apartments.

3.3 "Apartment Unit" means an Apartment together with the balcony or patio, as the case may be, and the storage area, if any, appurtenant to ownership of that Apartment, as well as any area of exclusive use assigned to or associated with the Apartment, and an Apartment Unit shall be referred to by the same number and letter as the Apartment. All structural parts of the Building in which each Apartment Unit is located, and all pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Apartment Unit and forming part of any system serving one or more other Apartment Units or the Common Elements shall be deemed to be part of the Common Elements.

3.4 "Articles of Incorporation" or "Articles" shall mean and refer to the Articles of Incorporation of COUNTRY HILLS WEST ASSOCIATION, which will be a nonprofit corporation whose membership will be comprised of the Owners of all of the Units.

3.5 "Association" means, COUNTRY HILLS WEST ASSOCIATION, an Arizona nonprofit corporation, or any successor or assign, whether by way of consolidation, merger, transfer or otherwise, the members of which shall be the Owners of all of the Units.

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

3.7 "Building" means any one (or all if the context requires) of the multifamily structures to be erected upon the Parcel, or upon any property which may be annexed hereto.

3.8 "Bylaws" mean the Bylaws of the Association as same may be amended from time to time.

3.9 "Common Expenses" means the items more particularly described in Paragraph 13.1 below.

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3.10 "Common Elements" mean the "general common elements", as that term is defined in Section 33-551, Arizona revised Statute, and includes the Parcel and all other portions of the Property, except the Apartments. Common elements are more particularly described in Paragraph 4 below.

3.11 "Condominium" means a Unit, together with the exclusive parking rights and the non-exclusive easement to use the Common Elements as set forth in this Declaration, and as provided by the Act. Each condominium shall constitute a separate freehold estate.

3.12 "Condominium Documents" means this Declaration, the Articles of Incorporation and Bylaws of the Association, the Plat, Association Rules and all other documents governing the Property, the Association and its members.

3.13 "Condominium Project" means the Property and each and every component thereof, including the Apartment Units and the Common Elements.

3.14 "Declarant" is synonymous with "Developer" and means the above recited Declarant or any person to whom Declarant's rights hereunder are specifically assigned by recorded instrument. Unless so specifically assigned, no other person shall be entitled to exercise the rights reserved to the Declarant hereunder. However, the Declarant's rights may be hypothecated to an institutional lender as security for the performance of any legal obligation and if such lender thereafter succeeds to the Declarant's rights by foreclosure, or any other legal remedy, or conveyance in lieu thereof, such lender shall be entitled to all of the rights of the Declarant hereunder, provided that any such successor shall be bound by all of the terms of this Declaration as it relates to the rights of all parties now or hereafter affected hereby.

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3.15 "First Mortgage" means a first lien deed of trust, as well as a first mortgage, on a Unit. "First Mortgagee" means the holder of a first mortgage, as well as a beneficiary or trustee under a first deed of trust, its successors and assigns.

3.16 "Declaration" means this instrument by which the Property is submitted to a Horizontal Property regime as such Declaration may from time to time be amended.

3.17 "Institutional Lender" means any bank, savings and loan association, insurance company, mortgage company or other financial institution holding a recorded first mortgage on any Condominium.

3.18 "Majority" or "Majority Owners" means the Owners of more than fifty (50%) percent of the undivided ownership of the Common Elements. Any specified percentage of the Owners means that percentage of undivided ownership of the Common Elements.

3.19 "Mortgage" includes deed of trust; "Mortgagee" includes a beneficiary under a deed of trust; and "Mortgagor" includes a Trustor under a deed of trust.

3.20 "Occupant" means a person or persons, including Owner, legally occupying or residing in a Condominium.

3.21 "Owner" or "Co-Owner" or "Unit Owner" means the person or persons whose estate or interest individually or collectively aggregate fee simple ownership of a Unit, and the person or persons who are purchasers under a valid and outstanding recorded agreement of sale with respect to a Unit, but shall not include a person whose interest is limited to security for a loan unless the context otherwise requires.

3.22 "Parcel" means the parcel or tract of real estate described above in this Declaration.

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3.23 "Person" means an individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

3.24 "Plat" means the plat of survey of the Property and of all Units, submitted to a horizontal property regime, as recorded in the office of the Coconino County Recorder in Case 4, Map 3237A, Pages ____.

37B, 37C, 37D

3.25 "Property" or "Condominium Property" shall have the same meaning as set forth in Section 33-551, Arizona Revised Statutes, as related to the development which is the subject matter of this Declaration, together with all fixtures and equipment intended for the mutual use, benefit and enjoyment of the Unit Owners.

3.26 "Record" or "Recording" refers to the county records or recordings in the office of the County Recorder of Coconino County, Arizona.

3.27 "Servicer" means the person or entity servicing a first Mortgage (including the First Mortgagee, if applicable), its successors and assigns.

3.28 "Unit" means an Apartment Unit together with the undivided percentage interest in and to the General Common Elements, which interest and the General Common Elements are more particularly described in Paragraph 4 below.

4. Horizontal Property Regime and Declaration.

It is intended that the condominium project will be developed in as many as four (4) phases, as more fully set forth below. Phase One of the project shall consist of that certain real property described as Parcel and attached as Exhibit A and of one (1) building containing a total of eight (8) individual Apartments, as shown on the Plat. If all phases are developed, the project will ultimately consist of four (4) buildings containing a total of no more than thirty-eight (38) individual Apartments, said buildings and Apartments to be generally of similar type, architectural style and approximate size as those buildings and Apartments included within Phase One. Any improvements

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which may be constructed by Developer or Declarant in connection with subsequent phases of the project shall be of consistent quality with the improvements constructed in connection with Phase One. Each Apartment in Phase One is separately identified numerically and described on the Plat referred to in Paragraph 3.24 of this document. Each Apartment in subsequent phases is also separately identified numerically on the Plat.

4.1 Notwithstanding any contrary provision of this Declaration, Declarant reserves the right in its sole discretion and without the consent of any other Owner or mortgagee, at any time within seven (7) years from the date of this Declaration, to annex all or any portion of the property shown on the Plat, excluding Phase One, which is legally described in Exhibit B attached hereto and incorporated herein by reference.

Nothing contained in this Declaration shall obligate Declarant to annex any additional phase, land or improvements to the Horizontal Property Regime created pursuant to this Declaration. Effectuation of any such annexation shall take place when Declarant records a Declaration of Annexation describing the property to be annexed, referring to this Declaration by reference, setting forth the number and description of the Apartment Units included within such phase and stating the undivided interest of each Apartment Unit, included within such phase and all prior phases, in the Common Elements and the proportionate share of each Apartment Unit in the common expenses of the Association. The formula to be used to readjust the undivided interest of each Apartment Unit in the Common Elements is set forth in Paragraph 4.2 below. As provided herein, any annexed property shall be divided into separate phases. The legal description of each phase within the annexed property is set forth on Exhibit "B" attached hereto. Each phase shall become irrevocably annexed into the Condominium Project on the date on which the first Unit within each phase is conveyed to a purchaser; provided, however, that no conveyance of a Unit by

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the Declarant to a developer or builder in connection with an assignment of the Declarant's rights under the Declaration shall cause the phase in which such Unit is located to be irrevocably annexed into the Condominium Project. The Declarant shall have the right to amend this Declaration of Annexation to change the description of the phases within the annexed property; provided, however, that the Declarant may not change any phase which has already been irrevocably annexed into the Condominium Project in accordance with the provisions of this Paragraph. Upon completion of any such annexation, all owners of Apartment Units in any such annexed phase shall have those rights and obligations set forth in this Declaration, and shall be treated as if the entire project had been developed at the same time. Upon each such annexation, a new budget shall be prepared and the assessments in connection therewith shall be levied in accordance with this Declaration.

The Horizontal Property Regime may not be amended or merged with a successor condominium regime without the prior approval of the Veterans Administration.

4.2 Each Apartment Unit shall have an undivided interest in the Common Elements which for Phase One shall be as shown on Exhibit C attached hereto and incorporated herein by reference. If and when subsequent Phases are annexed, such undivided interest will be reduced proportionately to give each Apartment Unit annexed a proportionate interest in the Common Elements equal to the interest of similar existing Apartments. Each Apartment Unit's undivided interest in the Common Elements is based upon its relative size. The formula to be used to compute and readjust each Apartment Unit's undivided interest is to divide the number of square feet of such Apartment Unit by the total number of square feet of all Apartment Units in annexed phases. To obtain an undivided percentage interest such figure would then be multiplied by 100. In any event, the maximum undivided percentage

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event, the maximum undivided percentage interest of any Apartment Unit shall not exceed that set forth in Exhibit C and the minimum undivided percentage interest shall not be less than 1.92%

The undivided interests in the Common Areas and Facilities and the fee titles to the respective Apartment spaces conveyed therewith, shall not be separated or separately conveyed, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective Apartment space, even though the description in the instrument of conveyance or encumbrance may refer only to the title to the Apartment space.

4.3 The proportionate share of each Owner of the respective Apartment Units in the common expenses of the Common Areas and Facilities shall be the same as the undivided interest established for each Apartment space in Paragraph 4.2 above.

4.4 The cubic content space of each Building with reference to its location on the land is described on the Plat. The boundaries of each building shall be the exterior of the outside walls of said Building, except that where there are patios or balconies extending beyond the exterior of the outside walls, the boundaries of each Building shall be the plane of the outer edge of the exterior walls surrounding said patios or balconies or the plane of the balconies, which extend outward farthest from the exterior walls of said Building. The upper and lower boundaries of the Building shall be as shown on the Plat.

4.5 The cubic content space of each Apartment shall consist of, and be measured by, the entire space between the horizontal and vertical boundaries thereof as shown on the Plat and described in Paragraph 3.2.

4.6 The owner of an Apartment Unit shall have an undivided interest in the Common Elements as set forth in

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Paragraph 4.2. Each owner of an Apartment Unit shall also have the right to the exclusive use of two parking spaces per Apartment as set forth in Paragraph 15.

4.7 There are no Limited Common Elements included within this condominium project.

4.8 Notwithstanding any contrary provision of this Declaration, Declarant reserves the right to abandon the balance of the proposed Project at the completion of any phase of development. If at the completion of any phase of development, Declarant elects to abandon the balance of the Project, such election shall be effectuated and evidenced by the recordation of an amendment to this Declaration executed by Declarant, describing that portion of the real property described on the Plat, which has been abandoned and redefining, in accordance with applicable VA/FNMA/FHLMC rules and regulations, the real property which shall then be and remain subject to this Declaration, the final number of Apartment Units, the undivided interest of each Apartment Unit in the Common Elements and the proportionate share of each Apartment Unit in the common expenses of the Association. Upon recordation of this amendment, the provisions of this Declaration shall terminate as to the property specifically described in said amendment as having been abandoned and withdrawn from the proposed Project.

5. Consent to Restrictions, Covenants and Conditions. Each and every Owner of a Unit described herein by the acceptance of a deed therefor, whether from Declarant or from any subsequent Owner of a Unit, or by the signing of contracts of agreements to purchase the same, and all others who at any time shall obtain any interest in the Property or a part thereof, is thereby deemed to consent, agree and affirm all of the restrictions, covenants and conditions hereof and is thereby deemed to agree to be bound by, keep and perform the same in strict compliance with this Declaration and the Articles of Incorporation and Bylaws, and such rules and regulations as may be adopted by the Association or by the Board from time to time. Failure to comply with any of the same shall be grounds for an action

to recover damages or for injunctive relief, or for the exercise of any other available remedies in accordance with law and set forth herein. Each Occupant shall be bound by the provisions of this Declaration, and the Condominium Documents.

6. Maintenance, Repairs and Replacements.
Responsibility for maintenance, repairs and replacements of the Property shall be as follows:

6.1 In connection with Apartment Units, the Association shall maintain, repair and replace, at the Association's expense:

(i) All parking areas and driveways.

(ii) All items within an Apartment (except interior surfaces), which contribute to the support of the Building, which shall include but shall not be limited to the outside walls of the Apartment, floor and ceilings slabs, load bearing columns, load bearing walls, and all fixtures on the exterior boundary walls of an Apartment serving the Common Elements or other Apartment Units.

(iii) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of an Apartment maintained by the Association, and all facilities contained within an Apartment which service part or parts of the Condominium Property other than the Apartment Unit within which such facilities are contained, except for each Apartment's heating and air conditioning units.

(iv) Notwithstanding the foregoing, the Association shall have authority to require Unit Owners: (a) to maintain, repair and replace all damages to windows and sliding glass doors except in the case of damage for which insurance proceeds are paid under policies purchased by the Association; and (b) to undertake any other maintenance, repair and replacement work, but such work must be required by

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uniform regulations promulgated pursuant to Paragraph 10.13 below.

6.2 In connection with Apartment Units, the Owner shall maintain, repair and replace, at the Owner's expense:

(i) All portions of his or her Apartment Unit except the portions to be maintained, repaired and replaced by the Association. Such work shall be done without disturbing the rights of other Apartment Unit Owners.

(ii) The interior portions of his or her Apartment Unit, including but not limited to the following items: service equipment such as dishwasher, laundry, refrigerator, oven/stove, water heater, heating and air conditioning units, whether or not such items are built-in fixtures; interior fixtures such as electricity and plumbing fixtures; floor coverings except the floor slab; all interior surfaces including but not limited to inside paint and other inside wall finishes.

(iii) All portions of the storage area, patio or balcony and all glass in windows and doors appurtenant to his or her Apartment Unit.

6.3 In connection with the Common Elements, maintenance, repairs and replacement of the Common Elements shall be furnished by the Association as part of the Common Expenses, subject to the provisions of this Declaration, the Articles of Incorporation, the Bylaws and the rules and regulations of the Association. Responsibility for portions of the Common Elements servicing or uniquely related to one Apartment Unit may be delegated to (or required of) that Apartment Unit Owner in the reasonable discretion of the Board.

6.4 Additional Provisions.

(i) To the extent permitted under Arizona law, if, due to the act or neglect of an Owner or member of his

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family or his invitee or guest, or other authorized occupant or visitor of such Owner or household pet of such Owner, damage shall be caused to the Common Elements or to an Apartment Unit owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Owner shall pay for such damage and for such maintenance, repairs and replacements as may be determined by the Board, to the extent not covered by the Association's insurance.

(ii) No Owner shall paint or otherwise decorate or change the appearance of any portion of the exterior of any building without the prior written approval of the Board.

(iii) Each Owner shall promptly report to the Association any defect or need for repairs, the responsibility for remedying of which is that of the Association.

(iv) An authorized representative of the Board, or of the manager or managing agent of the Property, and all contractors and repairmen employed or engaged by the Association or such manager or managing agent, shall be entitled to reasonable access to each of the Apartment Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or servicing other Apartment Units and the Common Elements.

(v) In the event that any Owner shall fail to maintain and repair his Unit and such improvements as required hereunder, the Association, in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternative remedies, shall have the right following reasonable notice, through its agents and employees, to enter upon said Unit and to repair, maintain, and restore the Unit and the exterior of the Building and any other improvements erected therein; and each

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Owner (by acceptance of a deed for his Condominium) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand together with interest thereon at the rate of the higher of ten (10%) percent per annum, or the then prevailing interest for new VA/FHA loans, and reasonable attorneys' fees incurred in collecting the amount due, which shall be the personal obligation of the Owner and shall constitute a continuing lien upon the Unit; the failure of any such Owner to pay the amounts due hereunder shall carry with it the same consequences as the failure to pay any assessment hereunder when due, including but not limited to the rights of the Association under Paragraph 23 to foreclose on the lien in the same manner as the assessment lien.

7. Alterations, Additions and Improvements.
Except for original construction work undertaken by Declarant, with respect to any Apartment Unit or the Common Elements, there shall be no structural alterations, additions or improvements to the Common Elements without the prior approval of the majority of the Owners given at a regular or special meeting of the Members of the Association. Unless otherwise determined at any such meeting, the cost of such alterations, additions or improvements to the Common Elements shall be paid by means of a special assessment against the Owners in the proportion of their respective undivided interests in and to the Common Elements. Any Owner may make nonstructural additions, alterations and improvements within his Apartment without the prior written approval of the Board, but such Owner shall be responsible for any damage to his or her Apartment, the Common Elements or the Condominium Property which results from any such alterations, additions or improvements. All Owners are hereby prohibited from making any structural additions, alterations or improvements within an Apartment Unit, unless an architect or engineer, licensed in Arizona, certifies that such addition, alteration or improvement will not impair the structural integrity of the Building within which such addition, alteration or improvement is to be made, and further, an Owner must obtain the prior written approval by the Board for such addition, alteration or improvement. The Owner shall be responsible for any damage to other Apartments, the Common Elements or the Condominium Property which result from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within the Apartment Unit, whether structural or not, shall be made without the prior written

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approval of the Board, if said addition, alteration or improvement is reasonably visible from other portions of the Condominium Property or from the surrounding neighborhood, and prior to granting such approval, the Board must affirmatively find that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding improvements and the Condominium Property.

8. Decorating. Each Owner, at his or her own expense, shall furnish and be responsible for all of the decorating within his or her own Apartment and balcony, if any, from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furniture and interior decorating; provided, however, no reflective materials shall be placed in the windows or on other surfaces which can be seen from the outside of the Buildings, without the prior written approval of the Board. Subject to the provisions of this Declaration, each Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings within his or her Apartment, and such Owner shall maintain such surfaces in good condition at his or her sole expense. Said maintenance may be subject to such rules and regulations of the Association as may be necessary for the common good of the Property. Decorating of the Common Elements (other than interior surfaces within the Apartment as above provided), and any redecorating of Apartments to the extent made necessary by any damage to existing decorating of such Apartment caused by maintenance, repair or replacement work on the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses. The interior and exterior surfaces of all windows and glass doors (if any) forming part of perimeter wall of an Apartment shall be cleaned or washed at the expense of each Apartment Unit Owner unless the Board determines otherwise. Decorating of patios and atriums shall be the responsibility of each Unit Owner having the use of such but subject to the rules and regulations of the Board. The exterior side of all drapes, curtains or other window coverings, shall be of off-white color.

Except for customary patio furniture on patios or balconies and except for plants and sun screens of a type and color approved by the Association, nothing shall be stored, placed, erected, hung or permitted on any patio, balcony, roof, the Common Elements, the exterior of the building, or upon or in the windows or outside doors of any Unit. Except for a master antenna approved by the Association, no antenna shall be erected on the Property. Cleaning of decorated finished interior walls, floors and ceilings of each patio and balcony and the landscaping of such areas shall be the responsibility of the Owner of the Unit of which said patio or balcony is a part. However,

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painting, decorating and non-natural landscaping of such areas must have prior written approval of the Board as to compatibility of color, design and aesthetics with the entire Property. Any construction, alteration, replacement or repair of or upon the Common Elements, or within a Unit if of a structural nature, must be approved in writing by the Board prior to commencement. The Board may require complete plans and specifications and may charge a reasonable fee for professional services connected with reviewing and approving such plans and specifications.

9. Encroachments. If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, or if any Unit shall actually encroach upon another Unit, as the Common Elements and the Units are shown by the surveys comprising the Plat, there shall be deemed to be mutual easements in favor of the Owners of the Common Elements and the respective Owners involved to the extent of such encroachment so long as the same shall exist and for any repair or replacement of such encroaching items. However, no such easement shall exist for an encroachment created by the willful misconduct of the person seeking the benefit of such encroachment easement.

10. Use and Occupancy Restrictions.

10.1 No part of the Property shall be used for other than residential or other related purposes except that Declarant reserves the right to maintain sales offices, model units, and signs on the Property, together with rights of ingress and egress therefrom. Each Unit shall be used as permitted by this Declaration and for no other purpose.

10.2 Subject to the provisions of these restrictions, use of the Common Elements shall be in accordance with and subject to uniform limitations and rules as established and determined by the Association and the Board.

10.3 Nothing shall be done or kept in any Unit or in any of the Common Elements which will increase the rate of insurance thereon without the prior written approval of the Board. No Owner shall permit anything to be done or kept in his Unit or upon any Common Elements which will result in the cancellation of insurance thereon or which would be in

violation of any Federal, State or local law and regulation.

10.4 No sign of any kind shall be displayed to the public view from any Unit or any Common Elements without the prior written approval of the Board, except signs as may be used by Declarant in connection with the development and sale of the Property.

10.5 No animals of any kind shall be raised, bred, or kept in any Unit or in or upon any Common Elements, except that a combination of not more than two (2) dogs, cats or other household pet may be kept in each Unit, subject to uniform rules and regulations of the Association, provided that no animal shall be kept, bred or maintained for any commercial purpose. All pets must be leashed or otherwise contained when outside the Unit and shall not be allowed to run loose. Any owner keeping an animal on the Property shall indemnify and hold harmless the Association for any loss, damage, cost or liability which the Association may sustain as a result of the presence of such animals, whether or not such animals' presence has been approved by the Association. Notwithstanding the generality of the foregoing, after (i) repeated violations of this subparagraph, (ii) ten (10) days' prior written notice to the owner of such animal(s), and (iii) an opportunity for such owner to have a hearing before the Board, such animal(s) may be taken from such owner and given to any local organization whose function is to deal with stray or abandoned animals.

10.6 The Owner shall not permit or suffer anything to be done or kept about or within his or her Unit which will obstruct or interfere with the rights of other owners or occupants, or annoy them by unreasonable noises or otherwise, nor will he or she commit or permit any nuisance about or within his or her Unit or commit or suffer any illegal act to be committed therein. The Owner shall comply with all of the requirements of

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the health authorities and of all governmental authorities with respect to the Property. All trash and garbage must be deposited in receptacles provided for such purpose and shall not be permitted to accumulate on or about a Unit. If by reason of the occupancy or use of the Property by the Owner the rate of insurance on the building shall be increased, the Owner shall be liable for such additional insurance premiums.

10.7 No organized religious, professional, commercial or industrial operations of any kind shall be conducted in or upon any Unit or the Common Elements except such temporary uses as shall be permitted by Declarant while Condominiums are being sold by the Declarant.

10.8 No boats, RV vehicles, campers, trailers or vehicles, other than licensed, well muffled, smokeless, operative motorcycles and operative passenger automobiles, including pickup trucks not exceeding three-quarters of a ton, shall be parked or stored in any Unit or in or upon the Common Elements. No vehicles shall be repaired or rebuilt in any Unit or upon the Common Elements; and no vehicle with camper shell exceeding the size of the bed and/or the height of the cab shall be parked or stored in any Unit or upon the Common Elements.

10.9 All Owners shall be members of the Association and shall comply with and be subject to the terms and conditions as set forth in the Articles of Incorporation and Bylaws and any rule or regulation of the Association. No Owner may transfer any membership or interest in the Association, except in connection with the sale of his entire Condominium to which such membership is appurtenant. If any Owner leases his entire Condominium to another person, such Owner shall continue to possess all voting rights which he might then have in the Association with regard to such Condominium. An Owner may assign to a tenant of his Condominium such Owner's

right to use and enjoy the common elements which would otherwise be enjoyed by such Owner.

10.10 Except for an institutional lender in possession of a Condominium following a default under a first mortgage, a foreclosure proceeding, or any arrangement in lieu of foreclosure, no Condominium shall be leased for transient or hotel purposes. All leases must specifically provide that they are subject to the provisions of the Condominium Documents and that failure to comply with such Documents constitutes a default under the lease. If the Owner fails to enforce a default under such lease for violation of the provisions of the Condominium Documents or of this subsection, the Board, as agent for such Owner, shall have the right to enforce such default and any defaulting lessee and the Owner shall be subject to all remedies given to the Association under Paragraph 23 below, including but not limited to Owner's personal responsibility to the Board for all costs, expenses and reasonable attorney's fees, together with interest thereon at the rate of the higher of ten percent (10%) per annum or the then prevailing rate for new VA/FHA loans, incurred by it in enforcing such default, which shall also be a continuing lien upon the Unit and which said lien may be foreclosed upon in the same manner as the assessment lien. All leases must be in writing. "Leases" are defined to include month-to-month and shorter rental arrangements.

10.11 No Unit or any portion of the Common Elements may hereafter be further subdivided or otherwise partitioned, and any action taken in violation of this provision shall be null and void.

10.12 By-laws and reasonable rules and regulations concerning the use of the Property and all portions thereof and imposing reasonable restrictions upon the Owners and use of the Apartment Units shall be adopted and amended from time to time by the Board. The Board

shall reduce such By-laws, rules and regulations, as amended to writing, shall make them available to every owner and resident, shall notify every owner and resident of where a copy may be obtained and shall furnish a copy to each owner and resident upon request.

11. Association. The Association has been or will be formed and shall fulfill its functions pursuant to the provisions of the Condominium Documents.

11.1 Definition, Powers, Membership. The Association shall constitute the "council of co-owners" as that term is defined in the Act, and shall serve as the governing body for the Condominium Project, and without limiting its powers and function, the Association shall provide for the maintenance, repair, replacement, administration and operation of the Property, the assessment of expenses, payment of losses, disposition of hazard insurance proceeds, and other matters as provided in the Act and the Condominium Documents. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it in accordance with the provisions of the Condominium Documents. Each Unit Owner shall automatically be a member of the Association so long as he or she shall be an Owner and such membership shall automatically terminate when he or she ceases to be an owner and upon the transfer of his or her ownership interest the new Owner succeeding to such ownership interest shall likewise automatically succeed to such membership in the Association. The City of Flagstaff, Arizona, is not responsible for and will not accept maintenance of private utilities, private streets, landscaped areas or other private facilities within the Property now or at any future time.

11.2 Board of Directors of Association. The affairs of the Association shall be conducted by a Board of Directors, who shall be selected in the manner stated in the Articles of Incorporation and

Bylaws as the same may be amended from time to time. No Director or officer of the Association shall personally profit from any contract for goods or services entered into by the Association.

11.3 Indemnification. Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceedings to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Association, or any settlement thereof, whether or not he is a Director or Officer at the time such expenses are incurred, provided that the Board of Directors of the Association shall determine, in good faith, that such Officer or Director did not act, fail to act, or refuse to act willfully or with gross negligence, or with fraudulent or criminal intent in the performance of his or her duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Directors or Officers may be entitled, but shall not apply to the extent such liability, damage or injury is covered by insurance of any type.

11.4 Association Grant of Easement. In addition to the blanket easements granted in Paragraph 12 below, the Association is authorized and empowered to grant licenses and easements for sewer lines, water lines, underground conduits, storm drains and other public utility purposes as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Elements or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Unit or Common Elements resulting from such grant shall be repaired by the Association at its expense.

11.5 Enforcement of Declaration. The Association or any Owner shall have the

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right to enforce, by any proceeding at law or in equity, all restrictions, covenants, conditions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any restrictions, covenants, conditions, reservations, liens or charges herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event legal action is filed hereunder, the non-prevailing party shall, unless otherwise ordered by the Court, pay the prevailing party's reasonable attorney's fees incurred in addition to any relief or judgment ordered by the Court.

11.6 Membership and Voting Rights.

A. Every Owner of an Apartment Unit which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Apartment Unit which is subject to assessment.

B. The Association shall have two classes of voting membership:

Class A. The Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Apartment Unit owned.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Apartment Unit owned and annexed to this Declaration and to the Association pursuant to Paragraph 4 above. Initially therefore, Declarant shall be entitled to cast its votes based upon 38 Apartment Units. The Class B membership shall cease and be converted to Class A membership upon the earlier of the expiration of one hundred twenty (120) days after the date when the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B Membership, or June 1, 1988, or

when no new unit construction has been initiated for a period of six (6) months and there is no evidence of continuing construction.

C. Only units actually annexed may be voted. When more than one person holds an interest in any Apartment Unit, all such persons shall be Members. The vote for such Apartment Unit shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any Apartment Unit. The vote for each such Apartment Unit must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners casts a vote representing a certain Apartment Unit, it will thereafter be conclusively presumed for all purposes that he, she or they were acting with the authority and consent of all other Owners of the same Apartment Unit. In the event more than one ballot is cast for a particular Apartment Unit, none of said votes shall be counted as said votes shall be deemed null and void.

D. In any election of the members of the Board, every Owner entitled to vote at such an election shall have the right to cumulate his or her votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of Apartment Units owned by the Owner multiplied by the number of votes the Owner is entitled to cast per Apartment Unit, multiplied by the number of Board Member to be elected. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

E. Each member shall have such other rights, duties, and obligations as set forth in the Articles and Bylaws, as the same may be amended from time to time.

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F. The Association membership of each Owner of an Apartment Unit within the Project shall be appurtenant to said Apartment Unit. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership of such Apartment Unit, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record, exercise of a power of sale under a deed of trust, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer of ownership to said Apartment Unit shall be null and void. Any transfer of ownership to said Apartment Unit shall operate to transfer said membership to the new Owner thereof.

12. Blanket Easements and Use of Common Elements.
There is hereby created a blanket easement upon, across, over and under the Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, cable television and electricity. By virtue of the easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary facilities and equipment on the Property and to affix and maintain wires, circuits, conduits and related facilities and equipment on, above, across, within and under the roofs and exterior walls of the Building and Units. Notwithstanding anything to the contrary contained in this Section, no easements shall be created nor shall any sewers, electrical lines, water lines, or other facilities for utilities be installed or relocated on the Property except as initially created, programmed and approved by Declarant or thereafter created or approved by the Board. This provision shall in no way affect any other recorded easements on the Property.

Each Owner shall have the right appurtenant to his Unit to use the Common Elements in common with all other Owners as may be required for the purposes of ingress and egress to and from, and use and occupancy and enjoyment of, the respective Unit owned by such Owner. Such right to use the Common elements shall extend to each Owner the agents, servants, tenants and invitees of each Owner. Such right to use and possess the Common Elements shall be subject to and

governed by the provisions of this Declaration and the Bylaws, Rules and Regulations of the Association.

12.1 Easements in Parking Areas. Easements are hereby reserved to the Owners of Units in the Condominium for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes; and for the construction and maintenance of water, sewer and other utilities; and for sanitation maintenance and pickups.

12.2 Title to Common Elements. In order to comply with the provisions of §10-3I-8(B) of City of Flagstaff Ordinance No. 1164, in conjunction with the conveyance of each Apartment Unit to the Owner, Declarant shall convey to the Owner an undivided percentage interest, as set forth in Exhibit "C", in the Common Elements which shall be appurtenant to and inseparable from the Unit. The Owner's appurtenant undivided interest in the Common Elements shall not be sold or conveyed in any manner separate from the Apartment Unit. Moreover, the Owner of the Apartment Unit shall be individually responsible for property tax assessments on his undivided interest in the Common Elements and, in the event of a failure to pay the property tax assessment applicable to his undivided interest in the Common Elements, his Apartment Unit shall be subject to a lien for the benefit of and enforceable by the taxing authority to the same effect as though the property tax assessment on the undivided interest in the Common Elements were directly applicable to his Apartment Unit. Notwithstanding that the Common Elements shall be conveyed in the foregoing manner, it shall remain subject to all of the provisions of this Declaration including, without limitation, the easements and rights described in Paragraphs 4.2 and 12.1, shall be managed and operated by the Association as herein provided and the expenses applicable thereto shall be common expenses to be allocated and imposed upon the Members as provided in

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the Declaration. The failure to pay the assessments shall become a lien on the owner's Apartment Unit and undivided interest in the Common Elements and may be enforced as provided in Paragraph 13.6 herein.

13. Assessments. In accordance with and subject to the Condominium Documents, the Association shall levy, make and collect assessments against the Unit Owners so as to provide for the payment of the Common Expenses. If the Units have separate meters for certain utilities, the cost of the same shall be the personal responsibility of such Unit Owner.

13.1 Common Expenses. The total amount to be assessed shall be the total of the Common Expenses which shall include:

A. All expenses of administration of the Condominium Project (including but not limited to legal, accounting and management fees); water and all other utility service for the Common Elements only; insurance required hereunder and otherwise as determined by the Board; costs of maintenance, operation, repair, replacement and betterment of the Common Elements (including but not limited to painting, landscaping, repairs, replacements, alterations, additions, reconstructions, services, supplies, labor, materials, equipment and other related items); taxes, and any valid charge against the Condominium Project as a whole as determined by the Board of Directors (including but not limited to all costs, expenses and legal fees incurred in enforcing compliance with this Declaration, deficiencies due to non-payment by Unit Owners and such costs as are deemed necessary to meet the purposes of the Association). Property taxes are to be levied against an individual owner's Apartment Unit and his or her percentage interest in the Common Elements and not against the Horizontal Property Regime as a whole.

B. Such amounts as determined by the Board for the establishment and maintenance of a reserve fund, which reserve fund shall be adequate to meet the costs and expenses of maintenance,

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repairs and replacements of those Common Elements which must be maintained, repaired and replaced on a periodic basis. Such reserve fund shall be funded and derived from the regular assessments payable in regular installments and not by means of special assessment or levy.

C. The Declarant shall establish a working capital fund for the initial months of the Project operation equal to at least two months estimated common area charge for each lot. Each lot's share of the working capital fund shall be collected and transferred to the Association at the time of conveyance of each lot and maintained in a segregated account for the use and benefit of the Association. The contribution to the working capital fund for each unsold lot in a phase which has been annexed shall be paid to the Association within sixty (60) days after the date of conveyance of the first lot in such annexed phase. The purpose of the fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not to be considered advance payment or regular assessments.

13.2 Creation of Assessment Obligation and Purpose of Assessments.

A. Each Owner of any Apartment Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, late charges and reasonable attorneys' fees incurred in collecting the assessments, shall be a lien on the Apartment Unit against which each such assessment is made. Each such assessment, together with interest,

costs, late charges and reasonable attorneys' fees incurred in collecting the assessments, shall also be the personal obligation of the person who was the Owner of such Apartment Unit at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them. No Apartment Unit shall be sold, transferred or conveyed by any Owner without all assessments having been paid in full, whether or not a lien has been filed or recorded.

B. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners in the Property, for the improvement and maintenance of the Common Elements, and for all purposes set forth in this Declaration and the Articles, including but not limited to, insurance premiums, expenses for maintenance repairs and replacements of Common Elements, reserves for depreciation and contingencies and charges for water and other utilities for the Common Elements.

13.3 Maximum Annual Assessment and Special Assessment. Until January 1 of the year immediately following the conveyance by Declarant of the first Apartment Unit to an Owner, the maximum annual assessment shall be \$540.00 for each Apartment Unit. In addition, the Association may levy special assessments as more fully set forth in subparagraphs D and E below.

A. From and after January 1 of the year immediately following the conveyance of the first Apartment to an Owner other than Declarant, the Board may, without a vote of the membership, increase the maximum annual assessment during each fiscal year of the Association by the higher of six (6%) percent per annum or an amount proportional to the amount of increase during the prior fiscal year in the Consumer Price Index for all urban consumers (all items) published by the

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United States Department of Labor,
Bureau of Labor Statistics (1967-100) or
in the event said index ceases to be
published, by any successor index
recommended as a substitute therefore by
the United States government.

B. From and after January 1 of the
year immediately following the
conveyance of the first Apartment to an
Owner other than the Declarant, the
maximum annual assessment may be
increased by an amount greater than the
maximum increase allowed pursuant to
Paragraph 13.3(A) above, only by
approval of two-thirds (2/3) of each
class of members who are voting in
person or by proxy at a meeting duly
called for this purpose.

C. The Board may fix the annual
assessment at an amount not in excess of
the maximum.

D. In addition to the annual
assessments authorized above, the
Association may levy, in any assessment
year, a special assessment applicable to
that year only for the purpose of
defraying, in whole or in part, the cost
of any construction, reconstruction,
repair or replacement of a capital
improvement of the Common Elements,
including fixtures and personal property
related thereto, or for any other lawful
Association purpose, provided that any
such assessment shall have the assent of
Owners representing two-thirds (2/3) of
the votes of each class of members who
are voting in person or by proxy at a
meeting duly called for this purpose.

E. Written notice of any meeting of
the members of the Association called
for the purpose of taking any action
authorized under this Paragraph 13.3
shall be sent to all Members not less
than thirty (30) days nor more than
sixty (60) days in advance of the
meeting. At the first such meeting
called, the presence of Members or of
proxies entitled to cast sixty (60%)
percent of all the votes of each class
of membership shall constitute a quorum.

If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

F. Annual and special assessments must be fixed at a uniform rate for all Apartment Units and may be collected on a monthly or annual basis, or on such other reasonable basis as determined by the Board.

G. The annual assessments provided for herein shall commence as to each Apartment Unit in a building in a phase which has been annexed on the first day of the month following the conveyance of such Apartment Unit in such building to an Owner other than the Declarant. For ninety (90) days following conveyance of the first Apartment Unit in a building in a phase which has been annexed to an Owner other than the Declarant, the Declarant shall be assessed and pay for each Apartment Unit which it owns in such building an amount equal to twenty-five (25%) percent of the regular assessment. Following ninety (90) days after the first conveyance of an Apartment Unit in a building in a phase which has been annexed to an Owner other than the Declarant, the Declarant shall pay for each Apartment Unit which it owns in such building the full regular assessment. In the event funds received by the Association are inadequate to pay for current obligations, Declarant shall be responsible on a current basis for any deficit in the budget of the Association, up to but not exceeding the amount of the regular assessment for Apartment Units which it owns and which have been annexed. Said obligation, together with interest thereon at the rate of ten (10%) percent per annum and reasonable attorneys' fees incurred in connection therewith shall constitute a lien on the Condominium Project in favor of the Association and the Owners. No

assessments shall be levied against Apartment Units in phases not yet annexed. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Apartment at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Apartment Unit have been paid.

H. If a Unit Owner fails to perform maintenance, repairs, and replacements which are his or her obligation, then, after written notice from the Board to perform such maintenance, repairs or replacements within a reasonable time limit as may be set by the Board, the Board may perform such needed maintenance, repairs and replacements, and it shall levy an assessment against such Unit Owner thereof equal to the amount so expended. The amount so assessed together with interest thereon at the rate of higher of ten (10%) percent per annum, or the then prevailing interest for new VA/FHA loans, and reasonable attorneys' fees incurred in collecting the assessment shall be the personal obligation of the Unit Owner and shall be a continuing lien against the Apartment Unit, which may be foreclosed upon as a mortgage lien if not paid upon demand.

I. All costs incurred in the enforcement of the provisions of this Declaration against any Unit Owner, including but not limited to attorneys' fees and court costs shall be assessed to the Unit and the Owner against whom enforcement is sought.

13.4 Determination by Board. Subject to the provisions of Paragraph 13.3

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above, the total amount of the regular assessment and each Unit Owner's share thereof, as set forth herein, shall be determined and established by the Board at reasonable intervals, and in accordance with the terms of the Articles and Bylaws. Each Unit Owner's share of the total assessment shall be paid, as directed by the Board and as set forth in the Bylaws.

13.5 Accounting. The Board of Directors, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally accepted accounting principles, and shall have available for the inspection of all Owners and First Mortgagees, at reasonable times, such books which shall specify in reasonable detail all expenses incurred and funds accumulated from assessments or otherwise.

13.6 Payment of Assessments and Lien Rights.

A. The Board or its designated representative shall notify the Owners of Units of that Unit's share of the total assessment and when such amounts are due and payable, all assessments shall be payable in regular installments. Each Unit Owner, for himself, his heirs, successors, grantees and assigns, covenants that with respect to charges so determined during the period that he is an Owner, he will remit these charges to the Association or the party or parties as directed by the Board.

B. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of the higher of ten (10%) percent per annum or the then prevailing interest rate for new VA/FHA loans.

C. No Owner may exempt himself from paying such assessments or charges by being a non-user of the General Common Elements or by abandoning the Unit of which he is the record Owner, or by otherwise avoiding such obligations.

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D. Each assessment or any other charge made on a Unit pursuant to the Condominium Documents shall constitute a lien on such Unit to secure the payment of such amount, which lien and the right to foreclose the same shall be in addition to and not in substitution of all the rights and remedies which the Association and the Board may have in accordance with the provisions of this Declaration or otherwise.

E. Each Owner by his acceptance of a deed to a Unit hereby expressly vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of all such assessments or charges of a debt, and to enforce the lien securing same by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in the like manner as a mortgage of real property and/or as a mechanic's lien, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The Association may make payments on any prior lien including any mortgage or taxes on the Unit, and such payments shall be added to the lien in favor of the Association. The lien provided for in this Paragraph 13.6 shall be in favor of the Association and shall be for the benefit of all other Unit Owners. The Association shall have the power to bid in any foreclosure sale pursuant to such foreclosure, and to acquire and hold, lease, mortgage and convey the Unit so purchased. The Association may institute suit to recover a money judgment for unpaid obligations of the Owner without being required to foreclose its lien on the Unit involved and without waiving the lien which secures such obligations.

F. The provisions of this part 13 are expressly declared to be subject to the provisions of part 21 below.

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14. Managing Agent. All powers, duties and rights of the Association or its Board, as provided by law and herein, shall be delegated to a managing agent under a management agreement, the term of which may not exceed one year, subject to successive annual renewal by agreement of the parties, provided such agreement must be terminable by the Association for cause on thirty (30) days written notice. By a majority vote of the Owners of all Units, the Association may elect to self-manage the Property. If at any time any of the Units are covered by mortgages or deeds of trust required in writing by the holder thereof to qualify for the further sale thereof to the Federal National Mortgage Association, Government National Mortgage Association or the Federal Home Loan Mortgage Corporation (or any successors to such corporations which perform their present functions) the terms of any management agreement and any decision by the Association to self-manage the Property shall be in accordance with and subject to all requirements (including any required consents or waivers) of such corporations or their successors, which requirements shall control.

15. Parking. Each Condominium shall have the right to the exclusive use of two (2) parking spaces on the Parcel. The location of such spaces shall be determined and assigned by the Board, but each such space shall be in reasonable proximity to the respective Apartment Unit. The easement for each Unit shall be specifically described in the deed to the Unit and provided for in the Owner's title policy. Such parking rights are appurtenant to each Owner's ownership of his or her condominium and cannot be separated from such ownership. The Board shall have full authority to operate, manage and use, for and on behalf of all Owners, the unassigned parking spaces situated on the Parcel.

16. Mortgages. Each Owner shall have the right, subject to the provisions hereof, to impose separate Mortgages upon his or her Condominium. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage, or other lien or security interest, on or affecting the Property or any part thereof, except only of his or her Condominium.

17. Insurance. Insurance shall be carried by the Association on the Condominium Property and shall be governed by the following provisions:

17.1 Authority to Purchase. The Board shall purchase and maintain certain insurance upon the Condominium Property, including but not limited to the insurance described in Paragraph 17.2 below, which insurance is to be purchased by the Association for the

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benefit of the Association, the Unit Owners, and the First Mortgagees, as their interests may appear. Provisions shall be made for the issuance of certificates of endorsement to the First Mortgagee of any First Mortgage. Such policies and endorsements thereon, or copies thereof, shall be deposited with the Association. The Board shall deliver a copy of the policies, or by and through their agent advise the Unit Owners of the coverage of said policies to determine which particular items are included within the coverage so that the Unit Owners may insure themselves as they see fit if certain items are not insured by the Association. Without limiting the generality of the foregoing, it shall be each Owner's responsibility to provide for himself Owner's liability insurance, theft or other insurance covering personal property damage and loss, insurance for each Owner's personal liability, and such other insurance which is not carried by the Association as the Unit Owner desires.

17.2 Coverage. The Association shall maintain and pay for policies of insurance as follows:

A. A multi-peril type policy covering the entire Condominium Project providing, at a minimum, fire and extended coverage, and all other coverage in kinds and amounts customarily acquired or required for projects similar in construction, location and use, including but not limited to vandalism and malicious mischief, in an amount not less than one hundred (100%) percent of the insurable value (based upon replacement cost).

B. A comprehensive policy of public liability insurance covering all of the Common Elements and public ways in the Condominium Project in an minimum amount of at least One Million (\$1,000,000) Dollars per occurrence, for personal injury and/or property damage. Such insurance policy shall contain a "severability of interest" endorsement

which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association and its agent or other Unit Owners. The scope of such coverage shall include all other coverage in the kinds and amounts customarily acquired or required for projects similar in construction, location and use.

C. If there is a steam boiler in operation in connection with the Condominium Project, there must be in force boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy and providing, as minimum coverage, Fifty Thousand (\$50,000) Dollars per accident per location.

D. If the Condominium 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 Condominium Project must be maintained in the amount of the outstanding principal balances of the First Mortgage loans on the Units comprising the Condominium Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less.

E. The Association must obtain fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written to provide protection which is in no event less than one and one-half times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any person who serves without compensation shall be added if the policy would not otherwise cover volunteers.

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F. A workmen's compensation policy, if necessary to meet the requirements of law.

G. Such other insurance as the Board shall determine from time to time to be desirable.

17.3 Provisions Required. The insurance policies purchased by the Association shall, to the extent possible, contain the following provisions:

A. The coverage afforded by such policies shall not be brought into contribution or proration with any insurance which may be purchased by Unit Owner or First Mortgagees.

B. The conduct of any one or more Unit Owners shall not constitute grounds for avoiding liability on any such policies.

C. There shall be no subrogation with respect to the Association, its employees, Unit Owners and members of their household and their families and employees, or the Policy(ies) should name said persons as additional insureds.

D. A "severability of interest" endorsement shall be obtained which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

E. A statement of the name of the insured shall be included in all policies, in form and substance similar to the following:

COUNTRY HILLS WEST ASSOCIATION for the use and benefit of the individual owners (designated by name, if required).

F. A standard Mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the COUNTRY HILLS WEST ASSOCIATION for the use and benefit of First Mortgagees as their

interest may appear, or which must be otherwise endorsed to fully protect the interest of First Mortgagees, their successors and assigns.

G. For policies of hazard insurance, a standard mortgagee clause shall provide that the insurance carrier shall notify the First Mortgagee named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

H. Any "no other insurance" clause shall exclude insurance purchased by Unit Owners or First Mortgagees.

17.4 First Mortgagee Protection.

A. The Association shall provide each First Mortgagee with a letter wherein the Association agrees to give written notice to each First Mortgagee, or Servicer of a mortgage, or any entity or person designated by such First Mortgagee or Servicer, of the following of which it has actual knowledge:

(1) Any condemnation or casualty loss to a Unit or the Common Elements or related facilities in excess of \$10,000.00;

(2) Any delinquency in the payment of assessments or charges owed by an Owner of a Unit upon which the First Mortgagee or Servicer has a mortgage and which delinquency remains uncured for a period of sixty days;

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

(4) Any proposed action that would require the consent of a specified percentage of eligible First Mortgagees as provided herein.

Notwithstanding any contrary provision hereof, the Association shall have no duty to give written notices provided for herein to any First Mortgagee,

unless such First Mortgagee shall deliver or mail to the Association a notice stating the address of the First Mortgagee to which such written notices are to be sent.

B. Each hazard insurance policy shall be written by a hazard insurance carrier which has a financing rating by Best's Insurance Reports of Class VI or better, or if such rating be discontinued, by a successor thereto or a similar such rating service.

C. Each insurance carrier must be specifically licensed or authorized by law to transact business within the State of Arizona.

D. Policies shall not be utilized where:

(1) Under the terms of the carrier's charter, bylaws or policy, contributions or assessments may be made against the Unit Owner or First Mortgagee or any entity or person purchasing or guaranteeing any First Mortgage; or

(2) By the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or

(3) The policy includes any limiting clauses (other than insurance condition) which could prevent any Unit Owner or the First Mortgagee, its successors or assigns from collecting insurance proceeds.

E. The mortgagee clause of each insurance policy shall be properly endorsed, and there must have been given necessary notices of transfer, and any other action required to be taken must be taken in order to fully protect, under the terms of the policies and applicable law, the interest of all First Mortgagees, their successors and assigns. Where permissible, the insurance carrier shall be required to

name the Servicer of a First Mortgage, or "(name of servicer) or assigns", as First Mortgagee under the Mortgage clause. If permissible, where a deed of trust is utilized, the insurance carrier shall be required to use "(name of servicer), beneficiary" or "(name of trustee) for the benefit of (name of servicer)" instead of only the name of trustee under the deed of trust.

F. All insurance drafts, notices, policies, invoices and all other similar documents, or their equivalent, shall be delivered directly to each Servicer involved, regardless of the manner in which the mortgagee clause is endorsed. The Servicer's address on any First Mortgagee endorsement on a policy shall be used in the endorsements in lieu of the address of the First Mortgagee if requested by the First Mortgagee.

G. First Mortgagees may pay overdue premiums, or may secure new insurance coverage on the lapse of a policy, with respect to any insurance required to be maintained by the Association as provided in this part, and First Mortgagees making expenditures therefor shall be owed immediate reimbursement by the Association.

17.5 Non-Liability of Association/Board. Notwithstanding the duty of the Association to obtain insurance coverage as stated herein, neither the Association nor any Board member shall be liable to any Owner or any other party if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Unit Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for such additional insurance coverage and protection the said Unit Owner may desire.

17.6 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount

of increase over any annual or other premium occasioned by the use, misuse, occupancy, or abandonment of an Apartment Unit or its appurtenances, or of the Common Elements by an Owner, shall be assessed against that particular Owner.

17.7 Insurance Claims. The Association, acting by and through its Board, is hereby irrevocably appointed agent for each Owner and for each holder of a First Mortgage or other lien upon a Unit, and for each owner of any other interest in the Condominium Property, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and the Board has full and complete power to act for the Association in this regard.

17.8 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and First Mortgagees, as their interests may appear.

17.9 FNMA FHLMC and GNMA. Notwithstanding any provision of this paragraph 17, if at any time any of the Condominiums are owned by or are covered by Mortgages which are held by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA") or the Federal Home Loan Mortgage Corporation ("FHLMC") (or any successor to such entities which performs their present functions) the Board shall at all times carry all casualty, flood and liability insurance and a fidelity bond in such amounts and containing all provisions as are required from time to time by such entities or such successors, unless such coverage is unavailable or waived by them in writing. If such entities require less coverage or other protection than is specifically required by this paragraph 17, the Board shall be free to provide such lesser

coverage and protection. All insurance policies provided pursuant to this paragraph 17 must contain a provision requiring not less than 30 days' prior written notice of cancellations or substantial modification, such notice to be sent to each institutional lender and all insureds, including all loan servicers on behalf of FNMA, FHLMC and GNMA.

18. Damage and Repair. If all or any part of the Condominium Property or any Property in which the Association owns an interest is damaged or destroyed by fire or other hazard, whether or not it shall be repaired or reconstructed, shall be determined in the following manner:

18.1 Common Elements. If the damaged property is part of the Common Elements or any property in which the Association owns an interest, it shall be repaired or reconstructed, unless it is determined in the manner hereinafter provided that the Condominium shall be terminated.

18.2 Apartments. In the event any multi-family structure subject to this Declaration is totally or substantially damaged or destroyed, the repair, reconstruction or disposition thereof shall be as provided by an agreement approved by the Owners of seventy-five percent (75%) of the Apartment Units in such damaged or destroyed multi-family structure.

18.3 Insurance Proceeds. An undivided share of such proceeds on account of damage to Common Elements shall be allocated to the Unit Owners according to their shares in the Common Elements set forth in part 4 above. Proceeds, if any, on account of damage to Apartment Units shall be held for the Owners of damaged Apartment Units in proportion to the cost of repairing the damage suffered by each Apartment Unit Owner, which cost shall be determined by the Association. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the First Mortgagee

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and the Unit Owner as their interests may appear.

18.4 Manner of Disbursements. The proceeds from assessments and insurance shall be disbursed in the following manner:

A. That portion of the insurance proceeds, if any, representing damage, the reconstruction and repair of which is the responsibility of the Apartment Unit Owner, shall be paid to the Apartment Unit Owner or, if there is a mortgagee endorsement, then to the Apartment Unit Owner and the First Mortgagee jointly, who may use such proceeds as they may determine, provided, however, to the extent that any damage to an Apartment Unit affects in any way the Common Elements or any other Owner's Apartment Unit, the proceeds must be used for reconstruction and repair of such damage.

B. The portion of insurance proceeds representing damage, the reconstruction and repair of which is the responsibility of the Association, shall be disbursed in payment of the costs of such repair and reconstruction in the manner required by the Board and upon approval of an architect qualified to practice in Arizona and employed by the Association to supervise the work.

18.5 Cost of Repair or Rebuilding. If the insurance proceeds are insufficient to pay all costs of repair and rebuilding, the Board shall levy a special assessment to make up any deficiency, which assessments shall be levied against all Owners in the same proportion as their percentage interest in the Common Elements. If the insurance proceeds exceed the costs of repair and reconstruction, then following completion of such repair and rebuilding, the excess shall be paid over to all owners and their holders of first Mortgages on their Condominiums as their respective interests may appear. Each payment to an Owner and his Mortgagee shall be by joint payee check

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or draft. Subject to the terms and conditions hereof, the assessment shall be levied against and all payments made to the Owners in the same proportion as their percentage interests in the Common Elements. The assessment provided for herein shall be secured by the lien provided for in paragraph 13 of this Declaration.

18.6 Termination. If it is determined in the manner above provided that the Building or Buildings containing Condominium Units shall not be repaired or reconstructed because of damage or destruction, then and in such event, the Condominium Project shall be terminated pursuant to A.R.S. §33-556.

19. Condemnation.

19.1 If a portion of the Property should be taken by exercise of the power of eminent domain, or should be transferred and conveyed to a condemning authority in anticipation of such exercise, the entire award made as compensation for such taking, including, but without limitation, any amount awarded as severance damages, or the entire amount received and paid in anticipation of such taking, after deducting therefrom, in each case, reasonable and necessary costs and expenses, including, but without limitation, attorney's fees, appraiser's fees and court costs (which net amount is hereinafter in this paragraph 19 referred to as the "Award") shall be paid to the Association as trustee for all Owners and the owners and holders of first Mortgages then encumbering the Units. If the portion of the Property taken or conveyed shall not be comprised of, or including, all or any part of a Unit, or if a majority of Owners elect to restore or replace a Unit under subparagraph 19.2 below, the Association shall, as soon as practicable, cause the Award to be utilized for the purpose of repairing, replacing and restoring the affected area, including, if the Association deems it necessary or desirable, the replacement of any Common

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Element improvements so taken or conveyed.

19.2 Except as hereinafter provided in this paragraph 19, if the portion of the Property taken or conveyed is comprised of, or includes, all or any part of a Unit, the Association shall call a special meeting of the members of the Association to convene within thirty (30) days after its receipt of the Award, to determine whether and, if so, in what manner, such Unit shall be restored, reconstituted or replaced. If a majority of the votes entitled to be cast by the Association members determine, at such special meeting, not to restore, reconstitute or replace such Unit and related improvements, the Association shall distribute the portion of the Award relating to such Unit to first the holder of any Mortgage or deed of trust upon such Unit and the remainder to the Owner thereof. At such time as such award has been so distributed, any such Owner who has lost his Unit by such taking or conveyance shall no longer possess any interest in the project, and the interest of the remaining Owners in the Common Elements shall automatically be adjusted accordingly. Notice of such adjustment may be executed and recorded by the Board. Any remaining Award shall then be subject to subparagraph 19.1 above. Any remaining portion of the Award not used pursuant to subparagraph 19.1 above, shall be divided into as many shares as there are remaining Units, such shares to be in the same proportion as the Owners' respective undivided percentage interest in the Common Elements after such taking or conveyance, and such shares shall be distributed to the Owners and the holders of any Mortgage or deed of trust on the applicable Unit, as their interests appear.

19.3 If the cost of any repair and restoration shall exceed the amount of the Award, a special assessment shall be levied against the remaining Owners to the extent necessary to make up such

deficiency. If relating to the Common Elements, such assessments shall be levied against the Owners in the same proportion as their percentage interests in the Common Elements after such taking or conveyance. If, relating to a Unit, such assessment shall be levied against the Owner of such Unit, the special assessment provided for herein shall be secured by the lien provided for in paragraph 13 of this Declaration.

19.4 If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or is otherwise sought to be acquired by a condemning authority, the holder of any first Mortgage, with respect to any such Unit and the servicer of such Mortgage, will be entitled to timely written notice of such proceedings or proposed acquisition and no provision of any document establishing the project will entitle the Owner of a Unit or other party to priority over such mortgage with respect to the distribution of the proceeds of any award or settlement.

20. Rights of First Mortgagees. Notwithstanding any language to the contrary contained in this Declaration, in addition to the rights granted elsewhere in this Declaration, the rights of all First Mortgagees of Apartments in the Project shall be as follows:

20.1 The consent of fifty-one percent (51%) of all then-existing institutional First Mortgagees, as that term is hereinafter defined, shall be required before any of the following actions may be taken:

A. The abandonment or termination of the Project, except for abandonment or termination pursuant to A.R.S. §35-556 requiring the approval of 100% of the owners and encumbrances or lienholders, and except in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain, and except for the abandonment of subsequent phases, as set forth in Paragraph 4.8 above;

B. Any material amendment to the Declaration or to the Bylaws of the Association, including but not limited to any amendment which would change the percentage interest of the Unit Owners in the Project; provided, however, that no Annexation pursuant to Paragraphs 4 through 4.9 above shall require the prior written approval of any institutional First Mortgagee;

C. The effectuation of any decision by the Association to terminate professional management and assume self-management of the Project.

D. Any material amendment to the Declaration or to the Bylaws of the Association that establishes, provides for, governs or regulates any of the following:

1. Voting.
2. Assessments, assessment liens or subordination of such liens;
3. Reserves for maintenance, repair and replacement of the Common Elements (or Units if applicable);
4. Insurance or fidelity bonds;
5. Rights to use of the Common Elements.
6. Responsibility for maintenance and repair of the several portions of the project;
7. Boundaries of any Unit;
8. The interests in the general or limited Common Elements;
9. Convertibility of Units into Common Elements or of Common Elements into Units;
10. Releasing of Units;
11. Any provisions which are for the express benefit of First Mortgagees.

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12. Any amendment to the Declaration or to the Bylaws of the Association shall not be deemed material if it is for the purpose of correcting technical errors, or for clarification only. A First Mortgagee who receives written notice of a proposed amendment shall be deemed to have approved said amendment unless said First Mortgagee files a written objection with the Association within thirty (30) days of the date of mailing of the written notice to the First Mortgagee.

20.2 No Unit in the Project may be partitioned or subdivided in violation of A.R.S. §33-560 and without the prior written approval of the holder of any First Mortgage on such Unit.

20.3 Any lien which the Association may have on any Unit in the Project for the payment of common expense assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any First Mortgage on the Unit recorded prior to the date any such common expense assessments become due.

20.4 Any institutional holder of a First Mortgage on a Unit in the Project will, upon request, be entitled to;

A. Inspect the books and records of the Project during normal business hours; and

B. Receive annual financial statements of the Project within ninety (90) days following the end of any fiscal year of the project; and

C. Receive written notice of all meetings of the members of the Association and be permitted to designate a representative to attend all such meetings.

20.5 In the event of substantial damage to or the destruction of any Unit or any part of the Common Elements, the institutional holder of any First

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Mortgage on a Unit will be entitled to timely written notice of such damage or destruction and no other party will be entitled to priority over the institutional holder of a First Mortgage on any such Unit with respect to the distribution to such Unit of any insurance proceeds.

20.6 If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or is otherwise sought to be acquired by a condemning authority, then the institutional holder of any First Mortgage on the Unit will be entitled to timely written notice of any such proceeding or proposed acquisition and no owner of a Unit or other parties shall be entitled to priority over such institutional holder with respect to the distribution to such Unit of the proceeds of any condemnation award or settlement.

20.7 With the exception of a Lender in possession of a Unit following a default in a First Mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease the unit for transient or hotel purposes. No unit owner may lease less than his entire unit. Any lease agreement shall be required to provide that the terms of the Lease shall be subject in all respects to the provisions of the Declaration and the Bylaws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing.

20.8 Each holder of a First Mortgage lien on a Unit who comes into possession of the Unit by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser out of foreclosure sale, will take title to the Unit free of any claims for unpaid assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the

Unit. No such foreclosure, sale or transfer shall relieve such Unit from liability for any assessment thereafter becoming due or from the lien thereof.

20.9 Any management agreement for the project must by its terms, be terminable by the Association for cause upon thirty (30) days written notice thereof, and the terms of any such management agreement may not exceed one (1) year, renewable by agreement of the parties for successive one year periods.

20.10 As used in this Article, the term "First Mortgage" shall mean and refer to any mortgage or deed of trust with first priority over any other mortgage or deed of trust, and the term "First Mortgagee" shall mean and refer to the holder of any mortgage or deed of trust with first priority over the holder of any other mortgage or deed of trust.

20.11 Notwithstanding and prevailing over all other provisions hereof, no amendment to this Declaration shall be made or become effective which in any way affects, diminishes or impairs any of the rights, privileges or powers granted to any First Mortgagee or which is in any way inconsistent with the customary rules, regulations or requirements of institutional First Mortgagees or their assigns without the consent of fifty-one percent (51%) of all then-existing First Mortgagees directly affected by the Amendment. First Mortgagees shall have the right to enforce against Unit Owners, the Association and all others, any and all provisions of this Declaration including, without limitation, this Section 20. Enforcement by First Mortgagees may be by injunction, mandatory or prohibitory, or any other lawful procedure. This Declaration shall be interpreted in conformity with all rules, regulations and requirements of institutional mortgage holders, insurers and guarantors including expressly but not limited to the Federal National Mortgage Association and the Veterans Administration, applicable to

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mortgages on condominiums, in effect as of this date or as hereafter amended, and any provision hereof which is inconsistent therewith shall be deemed modified to conform thereto. The Articles, Bylaws and all rules and regulations of the Association shall be governed by this Declaration and all provisions thereof which are inconsistent herewith shall be null and void.

20.12 All Institutional Lenders that have filed with the Association a request for notice of default shall be entitled to receive written notice from the Association of any default by the Mortgagor of any Mortgage on a Unit (the beneficial interest in which is held by said Institutional Lender) in the performance of such Mortgagor's obligations under the Condominium Documents, which is not cured within thirty (30) days.

20.13 The Association shall discharge its obligation to notify Institutional Lenders by sending written notices required herein to the lender or lenders requesting notice at the address given on the current request for notice, in the manner prescribed by paragraph 25.3. Any amendment to the Declaration or the Bylaws of the Association shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any mortgagee to whom written notice is sent requesting approval of such amendments but who does not deliver to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

20.14 The Condominium Documents contain no provisions creating a "right of first refusal," but should any such rights be created in the future, any Institutional Lender or the Veterans Administration coming into the possession of a Condominium pursuant to the remedies provided in a Mortgage shall be exempt from any such right of first refusal.

20.15 Association dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those Common Element improvements that must be replaced on a periodic basis, and shall be payable in regular monthly installments rather than by special assessments.

20.16 Any provision of the Condominium Documents which give an Owner, or any other party, priority over any rights of first mortgagees of Condominiums pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Unit and/or Common Elements shall not be enforceable against such mortgagees.

21. Covenants Running With The Land. It is intended and hereby declared that the provisions of this Declaration shall be covenants running with the land, and such provisions, except as otherwise provided herein, shall apply to and be binding to the fullest extent permitted by law, on all successors in interest to Declarant and shall benefit and be enforceable by every person who now, or at any time hereafter, owns or holds an interest in said Property. Declarant shall be deemed a beneficiary of said provisions hereof as long as Declarant is an Owner. As such beneficiary, Declarant shall have the right, in the event of any breach of any of said provisions hereto, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of each breach of any of the provisions to which beneficiaries of such agreement may be entitled.

22. Invalidity of any Provisions. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and, in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained herein should be invalid or should operate to render this Declaration invalid, this Declaration shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, or section or sections had not been inserted. In the event that any provision or provisions of this instrument appear to be violative of the rules against perpetuities, such provision or provisions shall be construed as being void and of no effect as of twenty-one (21) years after the death of the last to survive of the Incorporators and/or the initial Directors of COUNTRY

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HILLS WEST ASSOCIATION, or their children and grandchildren who shall be living at the time this instrument is recorded.

23. Violation of Declaration; Remedies. The following provisions are in addition to and not in lieu of any other terms and conditions contained in the Declaration relating to remedies.

23.1 Violation of any of the restrictions or conditions, or breach of any of the covenants or agreements contained herein or breach of any rules and regulations promulgated by the Board shall authorize the Association, acting through the Board or an authorized agent, or an encumbrance holder in the event that the Association refuses to act, to enter an Apartment Unit as to which said violation or breach may exist and summarily enforce such restrictions, conditions, covenants, agreements or rules and regulations and to make necessary repairs and 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 Apartment Unit, without being deemed guilty of having trespassed in any manner.

23.2 If an Owner (either by his or her conduct or by the conduct of any Occupant of his or her Apartment Unit) shall violate any of the provisions of this Declaration, or the provisions of the other Condominium Documents, as then in effect, and such violation shall continue for fifteen (15) days after notice in writing, or shall occur repeatedly during any fifteen-day period after written notice or request to cure such violation, then the Association acting through the Board, or any authorized agents, or any other Owner, or an encumbrance holder, shall have the power to file an action against the defaulting Owner for a judgment or injunction against the Owner or Occupant requiring the defaulting Owner to comply with the provisions of this Declaration, the Articles, or the Bylaws or the rules and regulations, and granting other appropriate relief including money damages, reasonable attorney's fees and

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

23.3 In the event of any default by any Owner under the provisions of the Act, this Declaration, the Articles, the Bylaws or the rules and regulations of the Association, the Association, or its successors or assigns, or the Board, or its agents or Declarant, or its assignee, or an Owner shall have each and all of the rights and remedies which may be provided for in the Act, this Declaration, the Articles, the Bylaws or said rules and regulations, or which may be available by law, and may prosecute any action or other proceedings against such defaulting Owner and others for enforcement or foreclosure of the Association's lien and the appointment of a receiver for the defaulting Condominium without notice, without regard to the value of such Condominium or the solvency of such Owner or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, and to sell the same as hereinafter in this paragraph provided, or for any combination of remedies or for any other relief. The proceeds of any such judicial sale shall first be paid to discharge court costs, other litigation costs, including but without limitation reasonable attorneys' fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting owner in a final judgment. Any balance of proceeds after satisfaction of such charges and any

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unpaid assessments hereunder or any liens shall be paid to the Owner. Upon the confirmation of the sale, the purchaser thereupon shall be entitled to a deed to the Condominium and to immediate possession of the Condominium and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration. All expenses of the Association or an Owner in connection with any such action or proceeding, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of the higher ten (10%) percent per annum or the then prevailing interest rate for new VA/FHA loans until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the common expenses, and the Association or an Owner shall have a lien for all of the same, as well as for nonpayment of his or her respective share of the common expenses, upon the Condominium of such defaulting Owner and upon all of his or her additions and improvements thereto. In the event of any such default by any Owner, the Association and the Board, and the manager or managing agent, if so authorized by the Board or an Owner, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner, and such assessment shall constitute a lien against the defaulting Owner's Condominium. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board or an Owner. The liens provided for in this paragraph 23 shall be junior to prior first mortgages and shall be foreclosed in the same manner as the

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lien provided for in paragraph 13. An Owner shall have the right to file an action or proceeding against another Owner of the Association for his/her/its breach, if any, of the Declaration, the Articles or the Bylaws, or as otherwise provided or allowed by law.

24. Limitation of Restrictions on Declarant.
Declarant is undertaking the work of construction of residential condominiums and incidental improvements upon the Property. The completion of that work and the sale, rental and other disposal of said Condominiums is essential to the establishment and welfare of said Property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Declarant, its contractors or subcontractors from doing on the Property whatever is reasonably necessary or advisable in connection with the completion of said work; or

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

C. Prevent Declarant from conducting on any part of the Property its business of completing said work and of establishing a plan of Condominium ownership and of disposing of said Property in Condominiums by sale, lease or otherwise; or

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

So long as Declarant, its successors and assigns owns one or more of the Condominiums established and described herein, Declarant, its successors and assigns

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shall be subject to the provisions of this Declaration. Declarant shall make every effort to avoid disturbing the use and enjoyment of their Condominiums by owners, while completing any work necessary to the Units and Common Elements.

25. Miscellaneous.

25.1 Parking Rights. The parking spaces to be provided on the Property including assigned parking spaces shall be used only for parking motor vehicles which are in operation condition and are classed by manufacturers rating as not exceeding three-quarters of a ton. In no event shall parking spaces or private driveways be used for parking, repairing, or reconstruction of recreational vehicles, motor homes, mobile homes, trailers of any kind, campers or boats.

25.2 FHA/VA Approval. Providing the Federal Housing Administration or the Veterans Administration has issued firm commitments to insure one or more mortgages upon the Properties and as long as there is a Unit owned by the developer, the following acts will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Elements and amendment of this Declaration.

25.3 Notices. Notices provided for in this Declaration or the other Condominium Documents and addressed to the Association or the Board shall be in writing and shall be addressed to the Association or the Board, at an address to be established by the Board from time to time. The Board may designate a different address for such notices by giving written notice of such change of address to all Owners. All notices to Owners shall be to their respective Condominiums. Any Owner may also designate a different address for notices to him by giving written notice of his change of address to the Board. Notices addressed as above shall be deemed effective when placed in a United

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States mail receptacle with United States first class postage prepaid or when delivered in person.

Upon written request to the Board, the holder of any recorded mortgage encumbering any Condominium shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners of the Condominium subject to such mortgage.

25.4 No 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 nor 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 on 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.

25.5 Interpretation. This Declaration shall be interpreted in conformity with all rules, regulations and requirements of the Veterans Administration and the Federal National Mortgage Association in effect as of the day of this Declaration or as hereafter amended, and any provision hereof which is inconsistent therewith shall be deemed modified to conform thereto. If there is any conflict among or between the Condominium Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given first to the Articles, then to the Bylaws and then to the rules and regulations of the Association.

25.6 Descriptive Headings. The descriptive headings of the several sections of this instrument are inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

25.7 Governing Law. This instrument 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.

25.8 Binding Effect. Subject to the provisions contained herein, this instrument shall be binding upon and inure to the benefit of the successors, assigns, purchasers, mortgagees, trustees and beneficiaries of deeds of trust, encumbrances, grantees, donees, and lienors of and from Declarant and upon and unto their respective successors, assigns, purchasers, mortgagees, trustees and beneficiaries of deeds of trust, encumbrances, grantees, donees and lienors.

25.9 Amendments to Declaration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by Owners representing not less than seventy-five percent (75%) of the Apartment Units. Any amendment must be recorded before it becomes effective. As used herein, the phrase "Apartment Units" shall include Apartment Units created and annexed pursuant to Paragraphs 4 through 4.8 above. In no event, however, shall the Declaration be amended so as to violate the provisions of §10-3I-8(B) of the City of Flagstaff Ordinance No. 1164.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be duly executed.

DAVID A. CHANCE and JEAN L.
CHANCE, husband and wife
dba CHANCE CONSTRUCTION CO.,
an Arizona Sole Proprietorship

David A. Chance
David A. Chance

Jean L. Chance
Jean L. Chance

STATE OF ARIZONA)
) ss.
County of Coconino)

On this 16 day of January, 1985,
personally appeared before me David A. Chance and Jean L.
Chance, husband and wife, dba Chance Construction Co., an
Arizona Sole Proprietorship, the Declarant named in the
foregoing Declaration of Horizontal Property Regime and of
Covenants, Conditions and Restrictions for "COUNTRY HILLS
WEST CONDOMINIUM"; and who also acknowledged that they
executed the foregoing instrument for the purposes stated
therein, being authorized so to do.

[Signature]
Notary Public

My Commission Expires:

Aug. 12, 1985

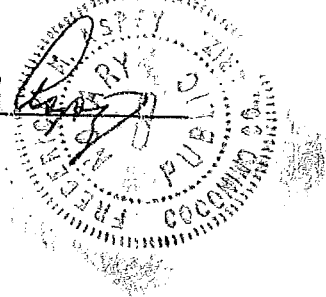


EXHIBIT A

LAND DESCRIPTION FOR PHASE I
Country Hills West

All that portion of the west one-half, of the north west one-fourth of Section 15, T 21 N, R 7 E of the G & S R P.M., more particularly described as follows:

Beginning at the Point that is on the easterly right-of-way of Beaver Street and on the northerly right-of-way of De Silva Avenue; thence 130.00 ft., S 69° 05' E along said right-of-way of De Silva; thence 80.0 ft., N 20° 55' E; thence 110.00 ft., N 69° 05' W; thence 55.20 ft., N 0° 09' E to a point on the northerly line of the S½ of the S½ of the SE¼ of the NW¼ of the NW¼ of said Section 15; thence 53.94 ft., N 89° 51' W along said northerly line to the easterly right-of-way of Beaver; thence 112.49 ft., S 20° 55' W along said easterly right-of-way to the Point of Beginning.

Said portion of land contains approximately 0.391 acres.

JEG
9/17/84
9/31/84

1013-511

EXHIBIT B

LAND DESCRIPTION FOR PHASE II
Country Hills West

All that portion of the west one-half of the north west one-fourth of Section 15, T 21 N, R 7 E of the G & S R P.M., more particularly described as follows:

Beginning at a Point on the northerly right-of-way of De Silva Avenue, said point being 180.00 ft., S 69° 05' E from the intersection of the easterly right-of-way of Beaver Street and said northerly right-of-way of De Silva Avenue; thence N 20° 55' E, 80.00 ft.; thence N 65° 05' W, 110.00 ft.; thence N 0° 09' E, 55.26 ft. to a point on the northerly line of the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$, of the NW $\frac{1}{4}$, of the NW $\frac{1}{4}$ of said Section 15; thence S 89° 51' E, 169.41 ft. along said northerly line; thence S 20° 55' W, 194.19 ft. to the northerly right-of-way of De Silva Avenue; thence N 69° 05' W, 30.00 ft. to the Point of Beginning.

Said portion of land contains approximately 0.341 acres.

JGC
6/6/75

1013-512

LAND DESCRIPTION FOR PHASE III
Country Hills West

All that portion of the west one-half of the north west one-fourth of Section 15, T 21 N, R 7 E of the G & S R P.M., more particularly described as follows:

Beginning at a Point on the northerly right-of-way of De Silva Avenue, said point being 210.00 ft., S 69° 05' E from the intersection of the easterly right-of-way of Beaver Street and said northerly right-of-way of De Silva Avenue; thence N 20° 55' E, 194.19 ft. to the northerly line of the S½ of the S½ of the SE¼ of the NW¼ of the NW¼ of said Section 15; thence S 89° 51' E, 55.92 ft. along said northerly line; thence S 30° 09' W, 166.79 ft. to a point on the southerly line of the SE¼ of the NW¼ of the NW¼ of said Section 15, said point also being on the centerline (abandoned) of Leroux Street; thence S 20° 55' W, 54.84 ft. along said (abandoned) centerline to the northerly line of De Silva Street; thence N 69° 05' W, 108.39 ft. to the Point of Beginning.

Above described portion of land contains approximately 0.411 acres.

JEG
9/5/84

1013-513

LAND DESCRIPTION FOR PHASE IV
Country Hills West

All that portion of the west one-half of the north west one-fourth of Section 15, T 21 N, R 7 E of the C & S R P.M., more particularly described as follows:

Beginning at the SE corner of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of said Section 15; thence N 89° 48' W, 88.90 ft. along the southerly line of said ~~SE $\frac{1}{4}$~~ ^{SE $\frac{1}{4}$} of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ to the intersection~~s~~ of the centerline (abandoned) of Leroux Street; thence N 0° 09' E 166.79 ft. to the northerly line of the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of said SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence S 89° 51' E, 84.81 ft. to the ^{NE} corner of said S $\frac{1}{2}$ of the S $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$; thence S 0° 55' E, 166.90 ft. to the Point of Beginning.

Above described portion of land contains approximately 0.334 acres.

JEG

4/21/28

1013-514