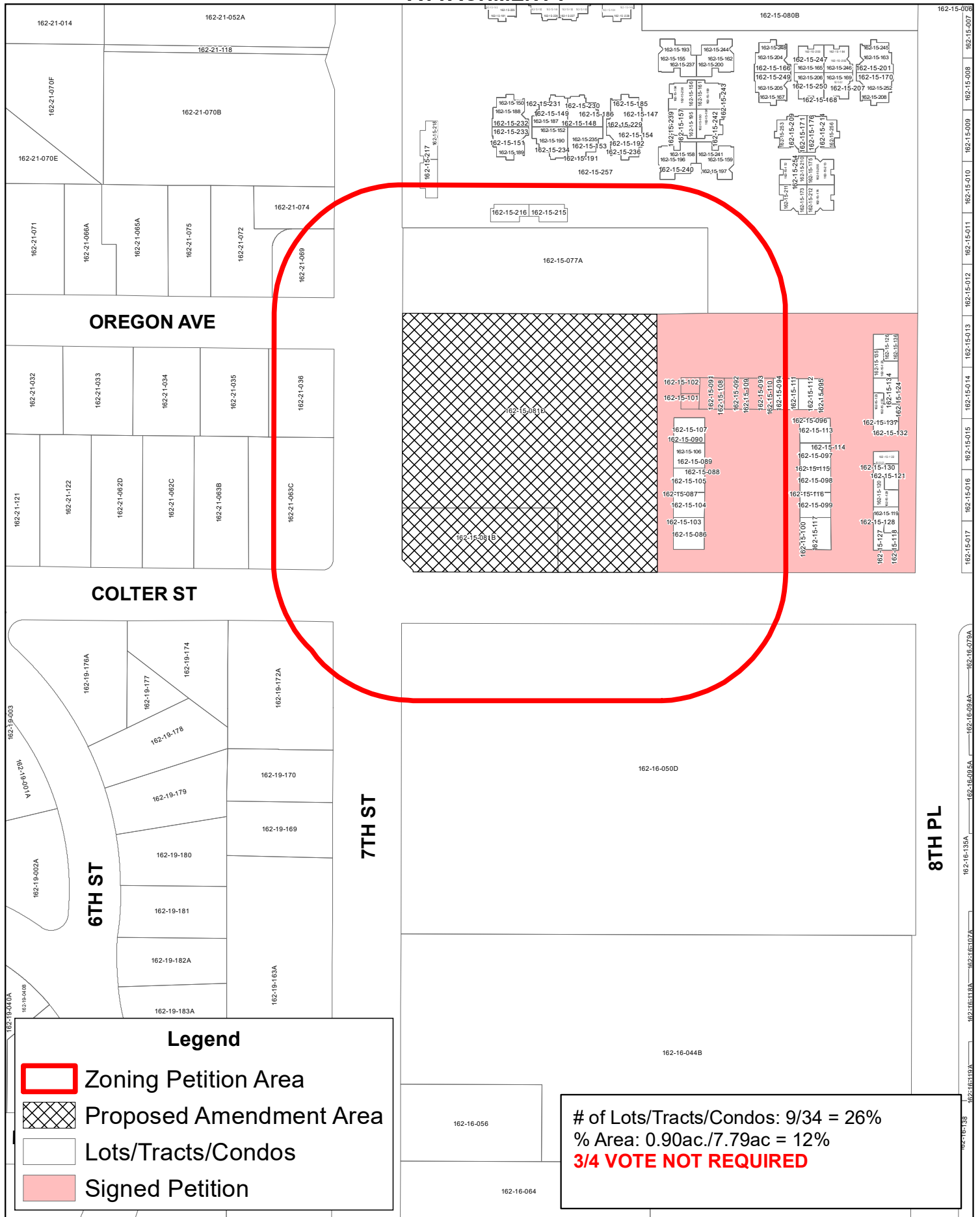


## ATTACHMENT F



## Petition Verification Map for Z-27-22

Map prepared by City of Phoenix, Planning & Development Services Dept. 10/14/2022

CITY OF PHOENIX  
PLANNING AND DEVELOPMENT DEPARTMENT

<b>FORM TO REQUEST PC to CC</b> <b>I HEREBY REQUEST THAT THE CC HOLD A PUBLIC HEARING ON: 11/2/2022</b>				
<b>APPLICATION NO/ LOCATION</b>	<b>Z-27-22-6</b> Northeast corner of 7th Street and Colter Street	<b>(SIGNATURE ON ORIGINAL IN FILE)</b>		
		<b>opposition</b>	<b>x</b>	<b>applicant</b>
<b>APPEALED FROM:</b>	PC October 6, 2022	7120 North 20th Street Phoenix, AZ 85020		
	<i>PC DATE</i>	<i>STREET/ADDRESS/CITY/STATE/ZIP</i>		
<b>TO PC/CC HEARING</b>	CC November 2, 2022	Larry Whitesell 602-370-8453 <a href="mailto:thepeakna@gmail.com">thepeakna@gmail.com</a>		
	<i>CC DATE</i>	<i>NAME / PHONE / EMAIL</i>		
<b>REASON FOR REQUEST:</b>  Information presented at the Planning Commission was inaccurate.				
<b>RECEIVED BY:</b>		<b>RECEIVED ON:</b>		

Alan Stephenson  
Joshua Bednarek  
Tricia Gomes  
Racelle Escolar  
Stephanie Vasquez  
Diana Hernandez  
David Urbinato  
Vikki Cipolla-Murillo

Greg Harmon  
Paul M. Li  
Village Planner  
GIS  
Applicant  
Adam Stranieri (for PHO Appeals)



CITY OF PHOENIX

OCT 13 2022

Planning & Development  
Department

The **PLANNING COMMISSION** agenda for **October 6, 2022** is attached.

The **CITY COUNCIL** may approve the recommendation of the Planning Commission without further hearing **unless**:

1. A **REQUEST FOR A HEARING** by the **CITY COUNCIL** is filed within seven (7) days.

There is a \$630.00 appeal fee for hearings requested by the applicant, due by 5:00 p.m. **October 13, 2022**.

Any member of the public may, within seven (7) days after the Planning Commission's action, request a hearing by the City Council on any application. If you wish to request a hearing, fill out and sign the form below and return it to the Planning and Development Department by 5:00 p.m. **October 13, 2022**.

2. A **WRITTEN PROTEST** is filed, no later than seven (7) days after the Planning Commission's action, which requires a three-fourths vote. A written protest will require a three-fourths vote of the City Council to approve a zoning change when the owners of at least 20 percent of the property by area and number of lots, tracts, and condominium units within the zoning petition area have signed the petition. The zoning petition area includes both the area of the proposed amendment, and the area within 150 feet of the proposed amendment, including all rights-of-way. For condominium, townhouse and other types of ownership with common lands, authorized property owner signatures are required. Please see Planning and Development Department Staff for additional information prior to gathering signatures.

To require a three-fourths vote of the City Council for approval, a written protest for applications on this agenda must be filed with the Planning and Development Department by 5:00 p.m. **October 13, 2022**

The Planning and Development Department will verify ownership by protestors to determine whether or not a three-fourths vote will be required.

3. A **CONTINUANCE** is granted at the **PLANNING COMMISSION**. In the event of a continuance, there is an \$830.00 fee due from the applicant within fourteen (14) days, by 5:00 p.m. **October 20, 2022**.

**FORM TO REQUEST CITY COUNCIL HEARING**

I HEREBY REQUEST THAT THE CITY COUNCIL HOLD A PUBLIC HEARING:

7-27-22-6  
APPLICATION NO.

10-6-2022  
DATE APPEALED FROM

☒ OPPOSITION  
☐ APPLICANT

7th & COLTER ST - NW CORNER  
LOCATION OF APPLICATION SITE

Bradley Wylam  
PLANNER  
(PLANNER TAKING THE APPEAL)

BY MY SIGNATURE BELOW, I ACKNOWLEDGE CITY COUNCIL APPEAL:

LARRY WHITESELL  
PRINTED NAME OF PERSON APPEALING

7120 N 20TH ST  
STREET ADDRESS

PHOENIX AZ 85020  
CITY, STATE & ZIP CODE

thepeakna@gmail.com  
EMAIL ADDRESS

Larry Whitesell  
SIGNATURE

10-13-2022  
DATE OF SIGNATURE

602 370-8453  
TELEPHONE NO.

REASON FOR REQUEST

INFORMATION PRESENTED AT THE PLANNING COMMISSION WAS INADEQUATE

**APPEALS MUST BE FILED IN PERSON AT 200 WEST WASHINGTON, 2ND FLOOR, ZONING COUNTER**



OCT 13 2022

Planning & Development  
Department

Petition for THREE-FOURTHS (3/4) Vote by City Council  
for REZONING APPLICATION # Z-27-22-6  
Request: C-2 to PUD  
Location: Northeast Corner of 7th St & Colter

We the undersigned are OWNERS of property within the area of the proposed amendment or the area within 150-feet of the proposed amendment, including all rights-of-way, requesting the rezoning action. We request that the City Council be required to pass the rezoning application by a three-fourths (3/4) vote.

Date	SIGNATURE	Print Name	ADDRESS	APN
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	810 E Colter Unit 6 Phoenix AZ 85014	162-15-091
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	810 E Colter Unit 7 Phoenix AZ 85014	162-15-092
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	810 E Colter Unit 8 Phoenix AZ 85014	162-15-093
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	819 E Colter Unit 16 Phoenix AZ 85014	162-15-101
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	810 E Colter Unit 18 Phoenix AZ 85014	162-12-102
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	810 E Colter Unit 25 Phoenix AZ 85014	162-15-108
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	810 E Colter Unit 26 Phoenix AZ 85014	162-15-109
10/12/2022	<i>Raymond Enix</i>	Raymond Enix	810 E Colter Unit 27 Phoenix AZ 85014	162-15-110
10/12/2022		Margaret E. Haugen, President	Imperial Plaza Condominium Association LLC 810 E Colter Phoenix AZ 85014	MCR-240-45


# CITY OF PHOENIX

OCT 13 2022

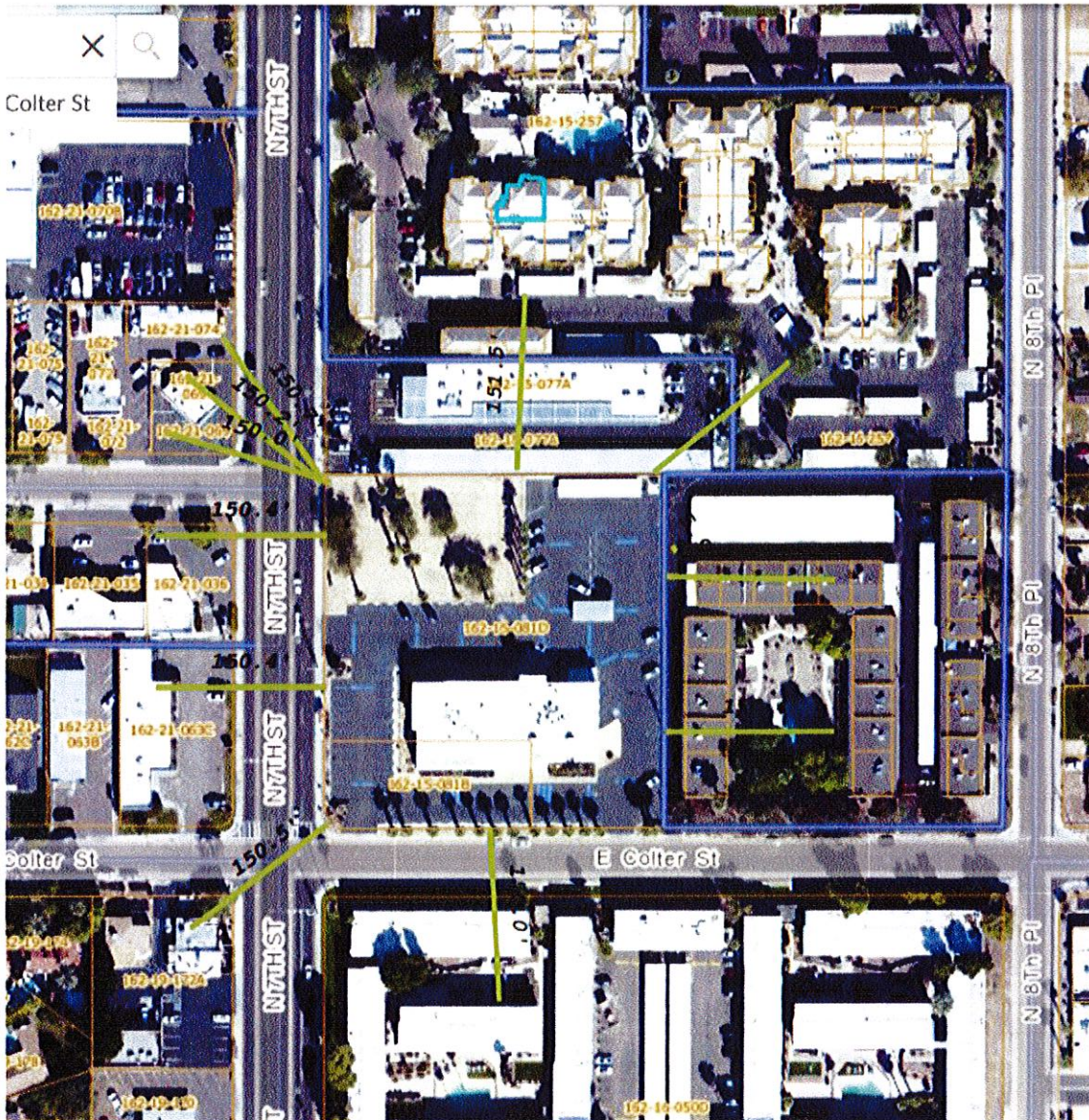
Planning & Development  
Department

Petition for THREE-FOURTHS (3/4) Vote by City Council  
for REZONING APPLICATION # Z-27-22-6  
Request: C-2 to PUD  
Location: Northeast Corner of 7th St & Colter

We the undersigned are OWNERS of property within the area of the proposed amendment or the area within 150-feet of the proposed amendment, including all rights-of-way, requesting the rezoning action. We request that the City Council be required to pass the rezoning application by a three-fourths (3/4) vote.

Date	SIGNATURE	Print Name	ADDRESS	APN
10/12/2022		Raymond Enix	810 E Colter Unit 6 Phoenix AZ 85014	162-15-091
10/12/2022		Raymond Enix	810 E Colter Unit 7 Phoenix AZ 85014	162-15-092
10/12/2022		Raymond Enix	810 E Colter Unit 8 Phoenix AZ 85014	162-15-093
10/12/2022		Raymond Enix	819 E Colter Unit 16 Phoenix AZ 85014	162-15-101
10/12/2022		Raymond Enix	810 E Colter Unit 18 Phoenix AZ 85014	162-12-102
10/12/2022		Raymond Enix	810 E Colter Unit 25 Phoenix AZ 85014	162-15-108
10/12/2022		Raymond Enix	810 E Colter Unit 26 Phoenix AZ 85014	162-15-109
10/12/2022		Raymond Enix	810 E Colter Unit 27 Phoenix AZ 85014	162-15-110
10/12/2022		Margaret E. Haugen, President	Imperial Plaza Condominium Association LLC 810 E Colter Phoenix AZ 85014	MCR-240-45





11 parcels + 20 units at Imperial Plaza Condominiums =  $31 \times 20\% = 6.2$

0 units at The Carlyle

**CITY OF PHOENIX**

OCT 13 2022

Planning & Development  
Department

## 2022 ANNUAL REPORT

### ENTITY INFORMATION

ENTITY NAME: IMPERIAL PLAZA CONDOMINIUM ASSOCIATION  
ENTITY ID: 14340460  
ENTITY TYPE: Domestic Nonprofit Corporation  
CHARACTER OF BUSINESS: HOMEOWNERS ASSOCIATION  
AUTHORIZED SHARES:  
ISSUED SHARES:

### STATUTORY AGENT INFORMATION

STATUTORY AGENT NAME: MICHAEL LATZ  
PHYSICAL ADDRESS: Attn: % GOLDEN VALLEY PROPERTY MANAGEMENT, 608  
E MISSOURI AVE STE 100, PHOENIX, AZ 85012  
MAILING ADDRESS:

### KNOWN PLACE OF BUSINESS

Att: MICHAEL LATZ % GOLDEN VALLEY PROPERTY MANAGEMENT, 608 E Missouri Ave, Ste  
100, PHOENIX, AZ 85012

### PRINCIPAL OFFICE ADDRESS

### PRINCIPAL INFORMATION

Director: RAYMOND ENIX - % GOLDEN VALLEY PROPERTY MANAGEMENT, 608 E MISSOURI AVE #100,  
PHOENIX, AZ, 85012, USA - - Date of Taking Office: 06/15/2017  
President: E K HAUGEN JR TRUST - % GOLDEN VALLEY PROPERTY MANAGEMENT, 608 E MISSOURI AVE  
#100, PHOENIX, AZ, 85012, USA - - Date of Taking Office: 05/14/2015  
Vice-President: Gary Miller - % GOLDEN VALLEY PROPERTY MANAGEMENT, 608 E MISSOURI AVE #100,  
PHOENIX, AZ, 85012, USA - - Date of Taking Office: 06/15/2017

### SIGNATURE

President: E K HAUGEN JR TRUST - 02/21/2022

When Recorded Return To:

The Travis Law Firm, PLC  
10621 S. 51<sup>st</sup> Street, Suite 103  
Phoenix, Arizona 85044

Unofficial  
20: Document

IM  
am

**AMENDED AND RESTATED DECLARATION OF COVENANT,  
CONDITIONS, AND RESTRICTIONS FOR  
IMPERIAL PLAZA CONDOMINIUM ASSOCIATION**

---

This Amended and Restated Declaration of Covenant, Conditions and Restrictions for Imperial Plaza is adopted by the Members of the Imperial Plaza Condominium Association ("Association").

**RECITALS**

WHEREAS, a certain Declaration of Horizontal Property Regime and of Covenant, Conditions And Restrictions was recorded on March 25, 1982, at Docket 15915, Page 929 ("Original Declaration");

WHEREAS, pursuant to Article 22 of the Original Declaration the Owners of at least sixty-seven percent (67%) are granted the right to amend the Original Declaration;

WHEREAS, the Owners of at least sixty-seven percent (67%) of the Units voted in favor of amending the Original Declaration; and

WHEREAS, the undersigned are desirous of amending said Original Declaration,

NOW THEREFORE, the undersigned Owners of at least sixty-seven percent (67%) of the Units of certain real property located in Maricopa County, State of Arizona, which is legally described according to the Plat of record in Book 240, Page 45, hereby declare that all the said real property shall be held, and conveyed subjection to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

1. DEFINITIONS. As used herein, unless the context otherwise requires:



1.1 "Act" shall mean and refer to the provisions of A.R.S. §§33-1201 *et seq.*, as the same may be amended from time to time or any successor statutes thereto

1.2 "Association" shall mean Imperial Plaza Condominium Association, an Arizona nonprofit corporation, or any successor or assign, whether by way of consolidation, merger, transfer or otherwise.

1.3 "Architectural Rules" shall mean any rules, design guidelines, standards and procedures adopted by the Architectural Committee, or the Board as amended or supplemented from time to time.

1.4 "Articles" means the Articles of Incorporation of the Association, as they may be amended from time to time.

1.5 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating, and managing the Property which is to be paid by each Unit Owner as determined by the Association, and includes Special Assessments and Enforcement Assessments, whether or not capitalized, defined and described in the Community Documents.

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

1.7 "Building" means the buildings located on the Parcel and forming part of the Property as shown on the Plat.

1.8 "Bylaws" means the First Amended <sup>Unofficial Document</sup> Bylaws of the Association as may be amended from time to time.

1.9 "Collection Costs" means all costs, fees, charges and expenditures (including without limitation, all attorneys' fees, court costs, filing fees, lien fees, demand fees and Recording fees" incurred by the Association in collecting and/or enforcing payment of any Assessments or other amounts payable to the Association pursuant to this Amended and Restated Declaration, without regard to whether a lawsuit is filed or legal action otherwise undertaken by or on behalf of the Association.

1.10 "Common Elements" means all portions of the of the Property other than the Units including the landscaping installed upon any portion of public rights of way immediately abutting the boundary lines of the Property.

1.11 "Condominium" means a Unit and the undivided interest in the common elements which is appurtenant to such Unit, together with the exclusive parking rights and the non-exclusive easement to use the common elements as set forth in this Declaration, as provided by this Declaration and by the Act. Each Condominium shall constitute a separate freehold estate.

1.12 "Community Documents" means this Declaration, the Articles of Incorporation, the First Amended Bylaws of the Association, the Plat, Rules and Regulations and

Architectural or Design Guidelines and any other documents governing the Property, the Association, and its Members.

1.13 "Common Interest" means the proportionate undivided interest in the Common Elements which is allocated to each Condominium.

1.14 "Declaration" means this Amended and Restated Declaration of Covenant, Conditions, and Restrictions for Imperial Plaza, Condominium Association, as it may be amended from time to time.

1.15 "Holder" means any bank, savings and loan association, insurance company, mortgage company or other entity or person holding a recorded first mortgage on any Condominium.

1.16 "Insurer" or "Guarantor" means any person or entity which insures a recorded first mortgage on any Condominium or any governmental entity which guarantees a recorded first mortgage on any Condominium and provides the Association with its name and address and the address of such Condominium.

1.17 "Invitee" shall include any person whose temporary or periodic presence within the Property, including any Unit, has been solicited, approved by, or arranged for, by a particular Unit Owner, Lessee, or Resident including, without limitation, guests, employees, business invitees, contractors, and agents.

1.18 "Improvement" means any construction, alteration, replacement, or repair of or upon the Common Elements, or within a Unit if of a structural nature. All Improvements shall be maintained, constructed, and reconstructed in neutral colors harmonious with the existing Improvements located in the Property and may be further subject to additional Rules as the Association may from time to time determine.

1.19 "Lessee" means any person who is the tenant or lessee of a Unit regardless of length of stay.

1.20 "Limited Common Element" means those Common Elements that are reserved pursuant to this Declaration for the use of one Unit, (or more than one but fewer than all Units) to the exclusion of other Units or by operation of A.R.S. §33-1212 paragraph 2 and 4, and also those physical areas, if any, designated as Limited Common Elements.

1.21 "Majority" or "Majority of Owners" means the owners of more than 50% of the Units.

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

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

1.24 "Occupant" means a person or persons, including an Owner, legally in possession of a Condominium.

1.25 "Owner" or "Owners" means the person or persons whose estates or interests individually or collectively aggregate fee simple ownership of a Condominium and the person or persons who are purchasers under a valid and outstanding recorded Agreement of Sale with respect to a Condominium.

1.26 "Parcel" means the parcel or tract of real estate described above in this Declaration and subject to the Act.

1.27 "Person" means a natural individual, corporation, partnership, business trust, association, joint venture, governmental subdivision or agency, or trustee or other legal entity capable of holding title to real property.

1.28 "Plat" means the plat of Imperial Plaza as recorded in Book 240 of Maps at page 45 thereof, Maricopa County, Arizona.

1.29 "Property" shall mean the real property as shown on the Plat, the Common Elements, Condominium Units, Limited Common Elements, and Improvements, together with all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit and enjoyment of the Owners.

1.30 "Record" or "Recording" refers to <sup>Unofficial Document</sup> record or recording in the office of the County Recorder of Maricopa County, Arizona.

1.31 "Rules" shall mean the rules adopted by the Board pursuant to Article 4, Section 4.5 of this Declaration.

1.32 "Unit" means a part of the Property, including one or more rooms situated in the building comprising as part of the Property, designed or intended for independent use as permitted hereunder and as set forth on the Plat. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on said Plat and as further described herein. However, no structural components of the building in which each Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Unit and forming part of any system serving one or more other Units or the Common Elements shall be a part of a Unit.

## ARTICLE 2

2. Submission of Property. The Property is a Condominium as defined and governed by A.R.S. §§33-1201 *et seq.*, and all Units shall be owned, leased, sold, conveyed and encumbered subject to the terms, conditions and other provisions of this Declaration and the Act.



### ARTICLE 3

3. Description of the Building, the Units, and the Common Elements. The entire Property shall be known as Imperial Plaza and shall be constituted of 52 Units as described in the Plat, together with the percentage interest in the Common Elements which is appurtenant to each Unit.

3.1 Building. A description of the cubic content space of the Building with reference to its location on the Parcel is set forth in the Plat. The upper boundary shall be the plane of the top elevation of the Building, as shown on the Plat, and the lower boundary shall be the plane of the base elevation of the Building as shown on the Plat. The vertical boundaries shall be the exterior of the outside walls, except where there are patios or balconies designated for the exclusive use of a Condominium and which extended beyond the exterior of or are part of the outside walls, in which case the vertical boundaries shall be the plane of the outer walls or outer edges of such patios or balconies.

3.2 Unit. The cubic content space of each Unit shall consist of, and be measured by, the entire space between the Unit's horizontal and vertical boundaries shown on the Plat. Balconies, patios, and storage area bearing similar numerical designation as a Unit on the Plat are part of such Unit, Unofficial Document and reserved for the exclusive use of such Unit's Owner. Each Unit's horizontal boundaries shall be underside of the finished but undecorated ceiling and the top of the finished but undecorated floor. Each Unit's vertical boundaries shall be the interior of the Unit's outside, finished, but undecorated walls and the inside plane of the undecorated walls or edges of such Unit's appurtenant patio or balcony. Unless otherwise shown on the Plat, each patio and balcony shall have the same horizontal boundaries as the Unit of which it is a part.

3.3 If any apparatus or other fixture lies partially within the boundaries of a Unit and partially with the Common Elements, any portion serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion serving more than one Unit is a Limited Common Element allocated solely to those Units. Unless designated otherwise in this Declaration, the costs to maintain, repair, or replace a Limited Common Elements shall be assessed to the Unit Owner(s) that benefit from such maintenance, repair, or replacement of the Limited Common Element. A Limited Common Element may be added or deleted by a vote of the majority of the Members.

3.4 A description of the Common Elements is the description referred to above in Section 3.1, plus the Parcel, less the description referred to above in Section 3.2. A description of the other Common Elements is as set forth in Section 1.10 of this Declaration.

3.5 The undivided interests in the Common Elements of the Association shall be allocated equally among the Units. Accordingly, each Unit's interest in the Common Elements shall be a percentage equal to one divided by the total number of Units existing in the Condominium from time to time. The percentage of interest of each Unit in the Common Elements shall be an undivided interest and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective Common Element Interest. The undivided Common Element Interest allocated to any Unit shall always be deemed conveyed or encumbered with any conveyance or encumbrance of that Unit, even though the legal description of the instrument conveying or encumbering the Unit may refer only to the fee title to the Unit.

#### ARTICLE 4

4. Association. The Association has been formed so as to constitute the "unit owners' association" as that term is defined in the Act. The Association serves as the governing body for all of the Owners 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 in 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 in a separate trust account and applied by it for the Owners in accordance with the provisions of the Declaration and the Bylaws.

Unofficial Document

4.1 Membership. Each Owner shall automatically become a Member of the Association upon the acceptance of the deed of a Unit within the Property. Each Owner shall remain a Member as long as he remains a Unit Owner, and such membership shall automatically terminate when he ceases to be a Unit Owner. Upon the transfer of the ownership interest, the new Unit Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association.

4.2 Association Board of Directors. Each Director shall be an Owner or the spouse of an Owner. If an Owner is a corporation, partnership or trust, a Director may be an officer, partner, or beneficiary of such Owner. If a Director shall cease to meet such qualifications during this term, the Director will thereupon cease to be a Director and the position on the Board shall be deemed vacant. No Director or officer of the Association shall personally profit from any contract for goods or services entered into by the Association.

4.3 Establishment of Architectural Committee. The Board shall have the right to adopt, amend or repeal by majority vote or unanimous written consent, rules and regulations which shall interpret and implement the provisions contained in the Community Documents and set forth the standards and procedures for architectural control, review and the guidelines for architectural design, landscaping, color

schemes, exterior finishes, use of materials and similar features and items in accordance with the Community Documents. The Architectural Committee shall review Architectural Change Requests by Owner. The decision of the Architectural Committee on all matters submitted to it pursuant to the Community Documents, may be appealed to the Board subject to the right of appeal as determined by the Board in accordance with the Rules. A variance or exception granted by the Board for extenuating circumstances or good cause will not render any of the Rules invalid or unenforceable.

**4.4 Establishment of other Committees.** The Board may establish such other committees as the Board may determine, including the number of regular members and alternate members as shall serve on such committees to conduct the delegated duties of such Committees.

**4.5 Rules and Regulations.** By a majority vote of the Board, the Association may, from time to time, and subject to the provisions of the Community Documents adopt, amend and repeal Rules and Regulations. The Association Rules may restrict and govern the use of the Common Elements and any other area within the Association, except the interior of the Unit. The Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. A copy of the Association Rules as they may from time to time be adopted, amended, or repealed shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery, said Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

**4.6 Votes Per Unit.** In all meetings of the membership each Member shall be entitled to cast one equal vote for each Condominium owned by such Member. Only a single vote may be cast for each Condominium, regardless of how title is held. If a Condominium is owned by more than one person or by a legal entity, such persons and such entity shall designate a single voting delegate in writing, addressed to the Board.

**4.7 Indemnification.** Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding 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 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 fraudulently or with criminal intent in the performance of his 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.

**4.8 Association Grant of Easements.** In addition to the blanket easements granted in Article 5 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 as it expense.

## **ARTICLE 5**

**5. 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 and under the roofs and exterior walls of the Building and Units. Unofficial Document 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, or approved by the Board. This provision shall in no way affect any other recorded easements on the Property.

Except as may be approved by the Board, no building or other structures shall be placed or erected on any easements nor interference made with the free use thereof for the purposes intended.

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, Occupants, agents, employees, Lessee, and Invitees of each Owner. Such right to use and possess the Common Elements shall be subject to and governed by the provisions of the Community Documents.

## **ARTICLE 6**

**6. Managing Agent.** To the extent the 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 any such management agreement may not exceed

one (1) year, subject to successive annual renewal by agreement of the parties, and any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days, or less, written notice. 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 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.

## **ARTICLE 7**

7. Parking. Each studio, 1-bedroom and 2-bedroom Condominium shall have the right to the exclusive use of 1 parking space on the Property, and each 3-bedroom Condominium shall have the right to the exclusive use of 2 parking spaces on the Parcel, the location of which space(s) shall be determined and assigned by the Association. Such parking rights are appurtenant to each Owner's ownership of his 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.

Unofficial Document

7.1 Vehicle Maintenance. Emergency repairs such as flat tires, light bulb and fuse changes, coolant hoses, fan belts and battery jumps are permitted. Washing, engine tune-ups, oil changes, engine rebuilds, other repair work, including body work are prohibited.

7.2 Restricted Vehicles. No trailers, campers, mobile homes, commercial vehicles, trucks (other than pick-up trucks), boats or similar equipment shall be permitted to remain upon any area within the Property except for temporary purposes such as loading or unloading.

7.3 Inoperable Vehicles. No inoperable vehicles are permitted on the Property. A vehicle is considered inoperable if: (1) the vehicle is partially or wholly dismantled, discarded, wrecked, on blocks or similar devices, stripped, or scrapped; (2) a vehicle has a deflated tire(s) or is missing any wheel or tire; (3) any vehicle which is inoperable due to mechanical failure or mechanical disassembly; (4) any motor vehicle missing a windshield, hood, fenders, doors, bumpers, engine, transmission, interior seats or operating controls; (5) any car with a missing or torn roof; or (5) an unregistered vehicle, or a vehicle with expired tags.

7.4 Maintenance of Parking Area. Parking spaces assigned to Owners are not allocated to Units as Limited Common Elements but rather shall be part of the

Common Elements maintained by the Association. Each Unit Owner is responsible to maintain his parking spot free of all debris and trash. If an Owner, Occupant, Lessee, guest, or Invitee of the Owner causes damage to the parking area, the cost of the repair or replacement will be assessed to the Unit Owner.

## ARTICLE 8

### 8. Common Expenses.

8.1 Each Owner shall pay in regular installments, as determined by the Board, his proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with the Declaration and the Condominium Documents (which expenses are herein sometimes referred to as "Common Expenses"), including specifically, but not by way of limitation, the maintenance and repair thereof and an adequate reserve fund for maintenance, repair and replacement of Common Elements that must be replaced on a periodic basis, as reasonably anticipated by prudent persons.

The Board shall prepare and adopt an annual budget from which Common Expenses shall be determined and assessed in accordance with generally recognized accounting principles. Such proportionate share of the Common Expenses for each Owner shall be in the same ratio as his percentage of interest in the Common Elements unless otherwise provided <sup>Unofficial Document</sup> herein. If the Units have separate meters for certain utilities, the cost of the same shall be the personal responsibility of such Unit Owner.

Payment of Common Expenses, including any prepayment thereof required by contract for sale of a Condominium, shall be in such amounts and at such times as determined by the Board. If any Owner shall fail or refuse to make any such payment of Common Expenses when due, each such payment shall be subject to a late payment charge of ten dollars (\$10.00), and the amount of such delinquent payments shall bear interest at the rate of ten percent (10%) per annum until paid. Such delinquent sums, late charges, accrued interest, costs, and reasonable attorneys' fees shall be the personal obligation of the Owner at the time the assessment was made. Such personal obligation shall not pass to such Owner's successor in title unless specifically assumed by such successor. Such delinquent sums, late charges, accrued interest, costs and reasonable attorneys' fees shall also constitute a lien on such Owner's Condominium; such lien shall not be affected by any sale or transfer of such condominium, provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage on the applicable Condominium, except for the amount of the proportionate share of Common Expenses which becomes due and payable from and after the date on which the holder of the mortgage (or any other purchaser at sheriff's sale or trustee's sale), comes into possession of or acquires legal title to such Condominium, whichever occurs first.



Nothing contained herein shall prohibit such Condominium's proportionate share of Common Expenses which became due prior to the foreclosure of a prior recorded first mortgage and were extinguished as a result of such foreclosure from being reallocated among and assessed against all Owners as a Common Expense. The lien provided for in this Declaration may be foreclosed by the Association in the same manner as provided for the foreclosure of realty mortgages in the State of Arizona and as provided in Article 18.

The Board may execute and record a written Notice of such lien at any time after the due date of such Common Expenses, but such lien shall exist regardless of whether such notice is recorded. The Board shall within ten (10) days of any written request from any interested person or mortgage holder certify in writing to such requesting party whether any delinquent assessments are due from any designated Condominium Owner. The recipient of any such certification shall have a right to rely upon its contents in connection with any purchase of or loan secured by the Condominium for which such certification was given.

8.2 Special Assessments, or Assessments other than those described in Section 8.1, may be made by the Board to meet other special needs of the Association and the Property, including, without limitation, assessments described in Articles 11 and 12. All Special Assessments other than those permitted in Article 11 and 12 below must be approved by the Owners of not less than 51% of the undivided interest in the Common Elements. Special Assessments shall be levied against all Owners in the same proportion as their percentage interest in the Common Elements and shall be secured by the lien provided for in Section 8.1.

## ARTICLE 9

9. Mortgages. Each Owner shall have the right, subject to the provisions hereof, to impose separate mortgages upon his 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 his Condominium.

## ARTICLE 10

10. General Insurance Provision. The Board shall have the authority to and shall obtain a master policy of insurance insuring the entire Property, including each of the Units, against loss or damage by fire, hazards covered by a standard extended coverage endorsement, and such other hazards as are customarily insured against in similar projects in the Phoenix, Arizona area including all perils normally covered by the standard "all risk" endorsement, to the extent such coverage is available. Such insurance shall be in an amount sufficient to provide full replacement of any damage in an amount not less

than one hundred percent (100%) of the full insurable value of the Common Elements, all Association-controlled personal property and the Units, as determined at least once each year by the Board and covered by an "Agreed Amount" type or "Inflation Guard" Endorsement, if available. All insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to the Association or to its authorized representative, including any designated Insurance Trustee, as Trustee for and for the use and benefit of the individual Owners in their respective percentages of ownership interest in the Common Elements and to the holders of mortgages covering each of the Units, as their interests may appear. Such policy of insurance shall contain a waiver of subrogation rights by the insurer against individual Owners, shall provide that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of the Owners collectively and shall provide that the policy is primary in the event an individual Owner has other insurance covering the same loss.

**10.1 Public Liability Insurance.** The Board shall also obtain comprehensive public liability insurance covering all of the Property. Such insurance policies shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or of other Owners. The scope of coverage shall be in the kinds and amounts required by private institutional mortgage investors for similar projects in Phoenix, Arizona, but must include coverage for property damage, bodily injury, and death in connection with the operation, maintenance or use of the Property. Coverage shall be for not less than One Million Dollars (\$1,000,000.00) <sup>Unofficial Document</sup> per occurrence, for personal injury and/or property damage.

**10.2 Fidelity Bond Insurance.** The Board shall carry fidelity bond or insurance coverage against dishonest acts of its directors, managers, managers' employees, trustees, employees, or volunteers responsible for handling association funds, regardless of whether such individuals serve with or without compensation. The fidelity bond or insurance shall name the Association as the named insured and shall be written in an amount sufficient to provide protection as determined by the Board, but in no event less than one and one-half (1-1/2) times the insured's estimated annual operating expenses and reserves.

**10.3 Steam Boilers.** If there are any steam boilers in operation in connection with the Property, the Board shall maintain boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy providing for a minimum of One Hundred Thousand Dollars (\$100,000.00) per accident per location.

**10.4 Workmen's Compensation.** Workmen's Compensation coverage shall be carried by the Association for each of its employees.

**10.5 Flood Insurance.** If the Property is located within an area identified by any agency of the Federal Government as having special flood hazards, the Board shall maintain a blanket policy of flood insurance on the entire Property, including all Units,

in an amount aggregating the lesser of (i) the maximum limit of coverage available under the National Flood Insurance Program, or any successor thereto, or (ii) one hundred percent (100%) of the current replacement cost of all buildings and other property covered by such policy, provided however that, *in no event* shall the amount of such policy be less than the outstanding principal balances of all mortgage loans on the Units.

**10.6 Agent of the Association.** Notwithstanding any of the foregoing provisions, the policies of insurance required herein may name as an insured, on behalf of the Association, an Insurance Trustee under an Insurance Trust Agreement entered into by the Association. The Association or Insurance Trustee, as the case may be, shall have the authority to collect and properly dispose of any insurance proceeds, to negotiate losses, to execute releases of liability and to execute all documents and perform all other acts necessary to purchase and maintain the insurance coverage required hereby.

**10.7 Insurance Premiums.** Premiums for all of the above-referenced insurance shall be Common Expenses.

**10.8 Owner Required Insurance.** Each Owner shall be responsible for his own insurance on the personal property contents of his Unit, any additions, decorating, or other improvements placed therein following purchase, and all furnishings and personal property therein or stored elsewhere on the Property. Each Owner shall further be responsible to provide his own <sup>Unofficial Document</sup> person liability coverage to the extent not covered by the liability insurance to be provided by the Board as set forth above. No Association-acquired insurance coverage, as required under this Article 10, shall be brought into contribution with insurance purchased by individual Owners, or their Mortgagees.

**10.9 Mortgages held by FNMA or FHLMC.** Notwithstanding any provision of this Article 10, if at any time any of the Condominiums are covered by mortgages which are held by the Federal National Mortgage Association ("FNMA") 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 Article 10, the Board shall be free to provide such lesser coverage and such substitute protection. All insurance policies provided pursuant to this Article 10 must contain a provision requiring not less than ten (10) days' prior written notice of cancellation or material modification, such notice to be sent to the Association, each Mortgage Holder and all insureds, including all loan servicers on behalf of FNMA and FHLMC. Further, all Insurers and Guarantors that have filed with the Association a written request for notice shall be entitled to receive written notice from the Association of any lapse,

cancellation or material modification of any insurance policy or bond provided pursuant to this Article 10.

**10.10 Insurance Deductible.** All deductibles under the Association's Insurance policy shall be a Common Expense and shall be paid by the Association; provided, however, the Association may assess to a Unit Owner any deductible amount expended as a result of the negligence, misuse, or neglect for which such Unit Owner is responsible under this Declaration and Arizona law.

## **ARTICLE 11**

**11. Damage and Destruction.** In the event the Property is damaged or destroyed by fire or other hazards:

11.1 The Board shall contract with a licensed contractor or contractors to rebuild or repair such damaged or destroyed portions of the Property in conformance with the original plans and specifications, or, if the Board determines that adherence to such original plans and specifications is not in conformance with applicable laws, ordinances, building codes, or other governmental rules or regulations then in effect, then such repairs or rebuilding shall be of a kind and quality substantially equivalent to the original construction of such improvements. The contract with such licensed contractor or contractors shall provide for payment to the contractor or contractors of a specified sum for performance and execution of the work therein described and shall have provisions for periodic disbursement of funds which shall be consistent with procedures then followed by prudent lending institutions doing business in Maricopa County, Arizona. Disbursements to the contractor shall be made subject to the prior presentation of an architect's certificate containing such provisions as may be appropriate in the circumstances and deemed suitable by the Board. The Board may employ a licensed architect or other qualified professional to supervise the repair and rebuilding to ensure that all work, services, and supplies are in conformity with the requirements of the construction contract. The Board shall use insurance proceeds for the purposes set forth in this Article.

11.2 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 assessment shall be levied against all Owners in the same proportion as their percentage interest in the Common Elements.

11.3 If the Association's insurance proceeds exceed the costs of repair and reconstruction, then following completion of such repair and rebuilding, those excess proceeds shall be placed in the Association's reserve account for future maintenance, repair, and replacement of the Common Elements.

11.4 In the event of damage to or destruction of any Unit or any material portion of the Common Elements, the Holder, Insurer or Guarantor of the first mortgage(s) on any such Unit(s) (and the Holders, Insurers or Guarantors of the first mortgages on all Units in the case of common element damage) will be entitled to timely written notice from the Association of such damage or destruction, provided such Holder, Insurer or Guarantor has filed with the Association a written request for such notice.

## ARTICLE 12

### 12. Condemnation.

12.1 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, attorneys' fees, appraiser's fees and court costs (which net amount is hereinafter in this Article 12 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 include, all or <sup>Unofficial Document</sup> any part of a Unit, or if an election to restore or replace a Unit is made in accordance with the provisions of Section 12.2 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 Element improvements so taken or conveyed. Any such repair, replacement and restoration shall be performed, to the extent reasonably possible following such condemnation, substantially in accordance with the original plans and specifications.

12.2 Except as hereinafter provided in this Article 12, 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 at least sixty-seven percent (67%) of the Owners of all Condominiums determines, at such special meeting, not to restore, reconstitute or replace such Unit and related improvements, and such decision is consented to by at least sixty-seven percent (67%) of the Mortgage Holders (based upon one vote for each first mortgage held), 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 Section 12.1. Any remaining portion of the Award not used pursuant to Section 12.1 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 interest appear.

12.3 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 Article 8 of this Declaration.

12.4 If any Unit or portion thereof or the Common Elements or any material 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, Insurer or Guarantor of the first mortgage on the Unit which is the subject of the condemnation or eminent domain proceedings, if the subject of such proceedings is a Unit, or the Holders, Insurers or Guarantors of the first mortgages on all Units, if the subject of such proceedings is the Common Elements or any material portion thereof, will be entitled to timely written notice of such proceedings or proposed acquisition, provided such Holders, Insurers or Guarantors have filed with the Association a written request for such notice. 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.

### ARTICLE 13

13. Maintenance, Repairs and Replacements of Owners. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit; and of all windows (including the glass, frame, sills, and any screen); appliances; equipment and components located within or serving one Unit; personal property; interior and exterior doors (including the door frame, locks, peep holes, doorbells, and doorknobs); interior partitioning; interior lighting fixtures and associated components; sewage and drainage pipes located within and serving one Unit; power/electrical wiring; utility lines located within and serving one Unit; air conditioning and heating units serving only one own Unit wherever located; cold and hot water units serving only one Unit; the drywall, wallboard, plasterboard, plaster, tiles, wallpaper or

other materials consisting of a finished surface of the walls, ceiling, and flooring of a Unit; cable lines; and satellite dishes. Unit Owner will be responsible for the maintenance, repair, and cost of any approved Improvement.

**13.1 Limited Common Elements.** The Association will maintain, repair, and replace the Limited Common Elements including but not limited to exterior light fixtures, Unit numbers, awnings, patios, balconies, entryways, or other fixtures designated to serve a single Unit but located outside the Unit's boundaries. The costs for the maintenance, repair, and replacement of the Limited Common Element will be assessed to the Unit(s) benefitting from such maintenance, repair, and replacement.

**13.1(a) Patio and Balconies.** Patio and balconies are Limited Common Elements. The Unit Owner will maintain the finished portion of the ceilings, walls, and flooring of their respective patio or balcony, including but not limited to cleaning, sealing, and maintaining other finishes. The original paint color(s) must be used unless the Association's Board of Directors, or the Architectural Committee, if one exists, approves in writing an Architectural Change Request by a Unit Owner prior to the commencement of any change. The Association will maintain, repair, and replace all other components of the patio or balcony. As a Limited Common Element, the Association will assess the costs of such maintenance, repair or replacement to the benefitting Unit Owner(s).

**13.2 Common Element Maintenance.** Except as otherwise provided herein to the contrary, maintenance, repairs and <sup>Unofficial Document</sup> replacements of the Common Elements shall be furnished by the Association as part of the Common Expenses, subject to the Association's Community Documents. The Association's maintenance will include but is not limited to the exterior surface of buildings, structural building elements, roofs and foundations, columns, studding, joists, beams, structural components of ceilings, floors and walls, fences, landscaping, pest control (such as rodent or insect), sidewalks, parking and street surfaces, gates, pool, and pool related equipment, and dumpsters.

**13.3 Improper Use.** If, due to the willful act, negligence or omission of an Owner, Occupant, Invitee, Lessee, guest or other authorized visitor of such Owner, damage shall be caused to the Common Elements or to a Unit owned by others, or maintenance, repairs or replacement 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. An authorized representative of the Board, or of the manager or managing agent, and all contractors and repairmen employed or engaged by the Board or such manager or managing agent, shall be entitled to reasonable access to each of the 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 serving other Units and the Common

Elements or in case of emergency necessitating access to such Units in order to preserve or protect the Property.

The Owner shall reimburse the Association in the amount expended for such repairs. Each Owner further agrees that if the costs for the repairs or replacement are not paid within ten (10) days after completion of the work such costs shall be secured by a lien against the Owner's Unit and shall bear interest at the rate of ten percent (10%) per annum. The costs owed by said Owner shall be a debt and shall be collectible, together with attorneys' fees and court costs, by any lawful procedure allowed by the laws of the State of Arizona including foreclosing the lien.

#### **ARTICLE 14**

14. Alterations, Additions, or Improvements. No alterations of any Common Elements, patios or balconies or any additions or Improvements thereto shall be made by any Owner without the prior written approval of the Board or the Architectural Committee. Except as otherwise prohibited herein, any Owner may make non-structural alterations within his Unit, or any non-structural additions or improvements within such Unit, without the prior written approval of the Board or Architectural Committee, but such Owner shall be responsible for any damage to other Units and the Common Elements as the result of such alteration, addition, or Improvement.

#### **ARTICLE 15**

Unofficial Document

15. Decorating and Architectural Control.

15.1 Each Owner, at his own expense, shall furnish and be responsible for all the decorating within his own Unit from time to time including painting, wallpapering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furniture and interior decorating. Each Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings within his Unit, and such Owner shall maintain such surfaces in good condition at his sole expense as may be required from time to time, which said maintenance and use shall be subject to the rules and regulations of the Association and each such Owner shall have the right to decorate such surfaces from time to time as he may see fit and at his sole expense. Decorating of the Common Elements (other than interior surfaces within the Unit as above provided), and any redecorating of Units to the extent made necessary by any damage to existing decorating of such Units 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 surfaces of all windows and glass doors (if any) forming part of a perimeter wall of a Unit shall be cleaned and/or washed at the expense of such Owner.

15.2 The exterior side of all drapes, curtains, or other window coverings, shall be of off-white color.

15.3 Except for customary patio furniture on patios or balconies, and except for plants and sunscreens 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.

15.5 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. Painting, decorating and non-natural landscaping of such areas must have prior written approval of the Association as to the compatibility of color, design, and aesthetics with the entire Property.

15.6 Any construction, alteration, replacement, or repair of or upon the Common Elements, or within a Unit if of a structural nature, must be approved by the Association prior to commencement. The Association may require complete plans and specifications and may charge a reasonable fee for professional services connected with reviewing and approving such plans and specifications. The Owner will maintain, repair, replace any approved Improvement. If the Owner fails to maintain, repair, or replace the approved Improvement, the Owner shall restore the property to substantially the same condition existing prior to the installation of the Improvement.

## ARTICLE 16

16. 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.

## ARTICLE 17

17. Use and Occupancy Restrictions. No part of the Property shall be used for other than residential or other related purposes. Each Unit shall be used as permitted by this Declaration and for no other purpose.

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

17.2 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 approval of the Association. No Owner shall permit anything to be done or kept in his Unit or in or upon any Common Elements which will result in the cancellation of insurance thereon or which would be in violation of any law.

17.3 No sign of any kind shall be displayed to the public view from any Unit or any Common Elements without the approval of the Association, except signs as allowed by A.R.S. §33-1261, including political signs, which an Owner may display on his Unit up to seventy-one (71) days before an election and may continue to display up to fifteen (15) days after the general election. If the sign is for a candidate in a primary election who does not advance to the general election, then the Owner must remove the sign fifteen (15) days after the primary election.

17.4 No animals of any kind shall be raised, bred, or kept in any Unit or in or upon any Common Elements, except that dogs, cats, or other household pets may be kept in Units, subject to uniform rules and regulations of the Association, provided that no animal shall be kept, bred, or maintained Unofficial Document for any commercial purpose.

17.5 The Owner shall not permit or suffer anything to be done or kept about or within his Unit which will obstruct or interfere with the rights of other occupants, or annoy them by unreasonable noises or otherwise, nor will he commit or permit any nuisance about or within his Unit or commit or suffer any immoral or illegal act to be committed therein. The Owner shall comply with all of the requirements of the health authorities and of all other governmental authorities with respect to the Property.

17.6 No Owner, guest, Invitee or Lessee shall consume or use marijuana in any Common Area or open space. Any Owner, guest, Invitee or Lessee who consumes marijuana within the privacy of a Unit must ensure that no odor or second-hand smoke interferes with the quiet enjoyment of neighboring Units. Such odor or second-hand smoke will be considered a nuisance and such Owner will bear the costs to prevent and preclude any odor or second-hand smoke from entering neighboring Units.

17.7 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.



17.8 If by reason of the occupancy or use of the Property by an Owner the rate of insurance on the building shall be increased, the Owner shall be liable for such additional insurance premiums.

17.9 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 the Board.

17.10 No motorized vehicles shall be parked or kept within a Unit.

17.11 Subject to the limitations set forth in Section 4.1, all Owners shall be Members of the Association and shall comply with and be subject to the terms and conditions a 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 or lease of his entire Condominium to which such membership is appurtenant. If an 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.

Unofficial Document

17.12 No Owner shall lease less than the entire Unit owned by such Owner. An Owner must provide to the Association the following prior to renting or lease a Unit: (1) the name and contact information for any adult occupying the Unit; (2) the time period for the rental or lease, including the beginning and ending dates of the tenancy; and (3) a description and the license plate numbers of the tenants' vehicles. If an Owner fails to enforce a default under such lease for violation of the provisions of the Community 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 Article 18 below.

17.13 A Unit Owner remains responsible for the acts or omissions of his Occupants, guests, invitees, family members, and Lessees while on the Property.

17.14 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 void.

## ARTICLE 18

18. General Remedies. In the event of any default by any Owner under the provisions of the Act, this Declaration, the Bylaws, or the Rules and Regulations of the Association, the Association, the Board, or its agents, shall have all the rights and remedies provided for in the Act, the Community Documents, or available by law. The Association may prosecute any action or other proceedings against such defaulting Owner and other for enforcement or foreclosure of the Association's lien and the appointment of a receiver for the defaulting Condominium without regard to the value of such Condominium or the solvency of such Owner, or for damages, injunction, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Condominium and to rent it and apply the rents received to payment of unpaid assessments and interest accrued thereon, and to sell the same as hereinafter in this Article provided, or for any combination of remedies or for any other relief.

18.1 Judicial Sale. 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 unpaid assessments hereunder or any liens shall be paid to the Owner. Upon the confirmation of the sale, the purchasers thereupon shall be entitled to a deed to the Condominium and to immediate possession of the Condominium Unofficial Document 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.

18.2 Enforcement Costs. All expenses and Collection Costs incurred by the Association in connection with any enforcement action or legal 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 ten percent (10%) per annum 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 shall have a lien for all of the same, as well as for nonpayment of his respective share of the Common Expenses, upon the Condominium of such defaulting Owner and upon all of his additions and Improvements thereto.

18.3 Attorneys' Fees Regardless of Suit. Attorneys' fees and costs shall be charged to and assessed against a defaulting Owner whether or not a lawsuit is filed.

18.4 Right to Self Help. 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, 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.

18.5 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. The liens provided for in this Article 18 shall be junior to prior first mortgages to the same extent as provided in Article 8 of this Declaration and shall be foreclosed in the same manner as the lien provided for in Article 8.

18.6 Notice of Violation. If any Owner (either by his conduct or by the conduct of any other Occupant of his Condominium) shall violate any of the provisions of this Declaration, the Bylaws or the Rules and Regulations, as then in effect, and such violation shall continue for ten (10) days after notice in writing from the Board or shall occur repeatedly during any ten-day period after written notice or request to cure such violation, then the Board, or any aggrieved Owner, shall have the power to file an action against the defaulting Owner or Occupant requiring the defaulting Owner to comply with the provisions of this Declaration, the Bylaws or the Rules and Regulations, and granting other appropriate relief, including money damages and attorneys' fees and costs.

18.7 Owners' Right to Enforce. If the Association, its successors or assigns or the Board or its agents shall violate or fail to comply with any of the provisions of this Declaration, the Bylaws or the Rules and Regulations, as then in effect then any aggrieved Owner shall have the power to file an action against the Association or Board to comply with the Declaration, the Bylaws or the rules and regulations, and granting other appropriate relief, including money damages.

18.8 Binding Effect. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien of any mortgage or deed of trust made in good faith and for value upon any Condominium 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 Owner whose title thereto is acquired by foreclosure, Trustee's Sale, sale, deed in lieu of foreclosure or otherwise.

18.9 Right to Enforce. Failure by the Association or by any Unit Owner to enforce any covenant or restriction contained in the Community Documents shall in no event be deemed a waiver of the right to do so thereafter.

## ARTICLE 19

19. Duration and Amendment. The provisions of this Declaration shall continue in perpetuity, but may be changed, modified, or rescinded by an instrument in writing setting forth such change, modification, or rescission, executed as follows:

19.1 Such instrument shall bear the signatures of not less than sixty-seven percent (67%) of the Owners of all Condominiums; provided, however, that before any such change, modification or rescission shall be effective at least sixty-seven percent (67%) of the Mortgage Holders (based upon one vote for each mortgage owned) shall have previously consented in writing to each such change, modification, or rescission.

19.2 Notwithstanding the provisions of the foregoing Section, if the Act, this Declaration, or the Bylaws require the consent or agreement of a greater percentage of Owners and Mortgagees, for any action specified in the Act or this Declaration, then any instrument changing, modifying, or rescinding any provision of this Declaration with respect to such action shall be signed by such greater percentage of Owners and Mortgagees, as required by the Act or this Declaration.

19.3 The change, modification or rescission whether accomplished under any of the provisions of Article 19 shall be effective upon recording such instrument, provided, however, that no provisions in this Declaration may be changed modified or rescinded so as to conflict with the provisions <sup>of the Act</sup> ~~Unofficial Document~~.

## ARTICLE 20

20. Rights of Mortgage Holders. No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning a mortgage with first priority over any other mortgage) on any Condominium made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in the Condominium Documents to the contrary, Mortgage Holders shall have the following rights:

A. All Holders of first mortgages that have filed with the Association a written 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 Holder) in the performance of such Mortgagor's obligations under the Condominium Documents, which is not cured within sixty (60) days. All Holders of first mortgages that have filed with the Association a written request therefor shall be entitled to receive written notice of any proposed action that would require the prior approval of a specified percentage of Mortgage Holders as set forth in subparagraph C of this Article 20. Insurers and

Guarantors shall also, upon written request therefor to the Association, be entitled to receive such written notices as provided for in this subparagraph A.

B. The Association shall discharge its obligation to notify Mortgage Holders, Insurers and Guarantors by sending written notices required herein to such parties requesting notice, at the address given on the current request for notice, in the manner prescribed by Article 22.

C. Unless at least sixty-seven percent (67%) of the Owners of all Condominiums, at least sixty-seven percent (67%) of the Mortgage Holders (based upon one vote for each first mortgage owned) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

1. By act or omission, seek to abandon or terminate the Association.
2. By amendment to the Declaration or to the Bylaws or otherwise, change the pro rata interest or obligations of any individual Condominium for the purpose of (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;
3. Make any material amendment to the Declaration, to the Bylaws or to any of the other Condominium Documents concerning any of the following: voting rights; assessments, assessment liens or subordination of such liens; reserves for maintenance, repair and replacement of the common elements; insurance or fidelity bond requirements; use of hazard insurance proceeds; boundaries of any Unit or of the common elements; percentage interest in the common elements; rights to use of the common elements; responsibility for maintenance and repair of the Units or common elements; leasing of Units; or any provision which is for the express benefit of Mortgage Holders;
4. By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements; provided, however, that the granting of easements for public utility or other public purposes in accordance with the provisions of this Declaration shall not be considered a transfer for purposes of this subparagraph;
5. Impose any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey its Condominium;
6. Expand or contract the Project or annex to or withdraw property from the Project; or



7. Effectuate any decision by the Association to terminate professional management and assume self-management.

- D. Any Mortgage Holder, Insurer or Guarantor and any Owner will, upon request, be entitled to (a) inspect the Declaration, Bylaws, rules and regulations, books, and records of the Association during normal business hours, and (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of the fiscal year of the Association.
- E. 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 Units and/or Common Elements shall not be enforceable against such mortgagees.
- F. Any Mortgage Holder who obtains title to a Condominium pursuant to a foreclosure of the mortgage on the Condominium will not be liable for such unpaid dues and assessments against the Condominiums which accrued prior to acquisition of the Condominium by the Mortgage Holder.
- G. Partition or subdivision of any <sup>Unofficial Document</sup> Unit or Common Elements is prohibited as provided in Section 17.14. In no event may a Unit be partitioned or subdivided (if otherwise permitted hereunder or by the Act), without the prior written consent of the Mortgagee of such Unit.

## ARTICLE 21

21. Compliance with FNMA And FHLMC Regulations. The Property shall comply with all requirements of the Federal National Mortgage Association ("FNMA") and of the Federal Home Loan Mortgage Corporation ("FHLMC") pertaining to the purchase by FNMA and FHLMC of mortgages on individual Condominium Units. Each Owner and each Mortgagee by acceptance of a deed or encumbrance consents to the incorporation in the Condominiums Documents of any such provisions and agrees to be bound by any such provisions as if they were originally contained in the Condominium Documents. The Board, each Owner and each Mortgagee shall take any action or shall adopt or consent to any resolutions required by FNMA or FHLMC to conform this Declaration, the other Community Documents to the requirements of FNMA or FHLMC.

## ARTICLE 22

22. Notices to the Association. Notices provided for in this Declaration or the other Community Documents and addressed to the Association or the Board shall be in writing

and shall be addressed to the Association or the Board, at any 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.

**22.1 Notices to 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 delivered seventy-two (72) hours after they have been mailed by United States mail 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 of Owners of the Condominium subject to such mortgage.

## **ARTICLE 23**

### **23. General Provisions**

**23.1 Severability.** If any provision of this Declaration or the Bylaws or the Rules, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and Bylaws, or the Rules and Regulations, and of the application of any such provision, section, sentence, clause, phrase or word, in any other circumstances, shall not be affected thereby, and the remainder of this Declaration or Bylaws, or the Rules shall be construed as if such invalid part were never included therein.

**23.2 Perpetuities and Restraints on Alienation.** If any of the options, privileges, covenants or rights created by this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provision shall continue until twenty-one (21) years after the death of the survivor of the now living descendants of the President of the United States on the date hereof.

**23.3 Rights and Obligations.** Each Owner by the acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, or each purchaser under any agreement of sale, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and equitable servitudes, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such grantee or purchaser in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or purchase contract.

23.4 Gender and Number. Whatever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words used in the singular shall include the plural; and words of the plural shall include the singular.

23.5 Number of Days. In computing days for the purposes of any provision in the Community Documents all days shall be counted including Saturdays, Sundays, and holidays, except as other specified herein. If the final day falls on a Saturday, Sunday or a holiday, the next day shall be deemed the next day which is not a Saturday, Sunday or holiday.

IN WITNESS WHEREOF the undersigned, hereby certify that this Declaration was duly adopted by the Owners as of this 14 day of Feb. 2022.

By: Margaret E Haugen  
President of Imperial Plaza Condominium Association

Unofficial Document

State of Arizona )

County of Maricopa )

On this 14<sup>th</sup> day of FEBRUARY 2022, before me, the undersigned notary public, personally appeared MARGARET E HAUGEN, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purpose therein contained.

Scott Brend

Notary Public  
Notary Seal

My Commission expires 6, 19, 2023

