

**WHEN RECORDED RETURN TO:**

**NAME:** Ryan Garland c/o Richard B. Murphy, Esq.

**Address:** 4647 N. 32<sup>nd</sup> Street, Suite 150  
Phoenix, Arizona 85018

**APN (Optional):** \_\_\_\_\_

**If Required: EXEMPTION CODE:** \_\_\_\_\_  
**(or include Affidavit of Property Value)**

**FEE# 2024045617**

OFFICIAL RECORDS OF MOHAVE COUNTY  
LYDIA DURST, COUNTY RECORDER  
09/12/2024 09:49 AM Fee \$30.00  
PAGE: 1 of 65

**DOCUMENT TITLE:**

**SECOND AMENDED AND RESTATED CONDOMINIUM DECLARATION  
FOR  
PARADYME HAVASU STORAGE  
AND  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**SECOND AMENDED AND RESTATED  
CONDOMINIUM DECLARATION  
FOR  
PARADYME HAVASU STORAGE  
AND  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Second Amended and Restated Condominium Declaration for Paradyme Havasu Storage, and Declaration of Covenants, Conditions and Restrictions (“**Second Amended Declaration**”), is made as of September 11, 2024, by Paradyme Havasu Storage, LLC, a Delaware limited liability company (“**Declarant**”).

**RECITALS**

A. **WHEREAS**, on or about June 15, 2023, Declarant recorded that certain Condominium Declaration of Covenants, Conditions and Restrictions in the Official Records of the Mohave County Recorder at Fee Number 2023027526;

B. **WHEREAS**, on or about May 6, 2024, Declarant recorded that certain Amended & Restated Condominium Declaration for Paradyme Havasu Storage and Declaration of Covenants, Conditions, and Restrictions in the Official Records of the Mohave County Recorder at Fee Number 2024022256 (“**First Amended Declaration**”) to incorporate Paradyme Havasu Storage, Phase II, a condominium;

C. **WHEREAS**, the Property is still within the Period of Declarant Control;

D. **WHEREAS**, the Declarant completed or will soon complete construction of a new Phase consisting of additional Units as depicted on that certain Plat recorded in the Official Records of the Mohave County Recorder at Fee Number 2024039994, being the Final Plat for the Paradyme Havasu Storage, Phase III, a condominium (“**Phase III**”);

E. **WHEREAS**, on or about August 29, 2024, Declarant recorded that certain amendment to the First Amended Declaration in the Official Records of the Mohave County Recorder at Fee Number 2024043646 (“**Amendment**”) to incorporate Phase III;

F. **WHEREAS**, the Declarant wishes to amend and revise the Declaration to (1) subject additional Units to the Declaration and (2) amend the Declaration to include the new Units in the allotment of votes in the Association and/or costs of Common Expenses;

G. **WHEREAS**, the Declarant is permitted to make such amendments under the Declarant’s Development Rights and under Sections 2.6.3 and 15.8.4 of the Declaration; and

H. **WHEREAS**, the Declarant wishes to file this Second Amended Declaration to correct certain deficiencies in the Amendment.

**AMENDMENT**

**NOW, THEREFORE**, the First Amended Declaration recorded at Fee Number 2024022256 in the official records of Mohave County and the Amendment are hereby amended as follows:

1. The First Amended Declaration and the Amendment thereto are superseded and replaced by this Second Amended Declaration, attached hereto as **Exhibit 1**.

2. The Property's legal description in **Exhibit A** in the Second Amended Declaration shall be updated to include Phase II's and III's legal descriptions as follows.

A CONDOMINIUM SUBDIVISION OF AIRSPACE OF A PORTION OF PARCEL "B" AS SHOWN ON CONDOMINIUM PLAT OF PARADYME HAVASU STORAGE PHASE I, LAKE HAVASU CITY, RECORDED AT RECEPTION No. 2023027158, LYING IN SECTION 9, T.14N., R.20W., G. & S.R.M., MOHAVE COUNTY, ARIZONA.

AND

A CONDOMINIUM SUBDIVISION OF AIRSPACE OF A PORTION OF PARCEL "B" AS SHOWN ON CONDOMINIUM PLAT OF PARADYME HAVASU STORAGE, PHASE II, LAKE HAVASU CITY, RECORDED AT RECEPTION No. 2024022255, LYING IN SECTION 9, T.14 N., R.20 W., G. & S.R.M., MOHAVE COUNTY, ARIZONA

The Phase II and III legal descriptions are in addition to the legal description in **Exhibit A** of the First Amended Declaration and do *not* supersede it.

3. This Second Amended Declaration includes an updated **Exhibit B** to include Phase III's units. The Second Amended Declaration's **Exhibit B** supersedes all other **Exhibit B**'s including the one recorded with the Amendment.

4. All Units on the Phase III Plat and those listed in this Second Amended Declaration's **Exhibit B** are included in the Property and subject to the Declaration.

5. Any capitalized term used herein that is not defined shall have the term assigned to it in the Amended Declaration.

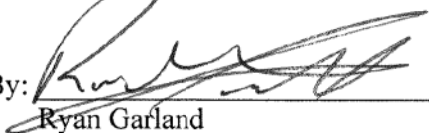
6. All other portions of the Declaration remain the same.

**[SIGNATURE APPEARS ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, Paradyme Havasu Storage, LLC, a Delaware limited liability company, the Declarant, has executed this Amendment as of the date set forth on page one herein.

**DECLARANT:**

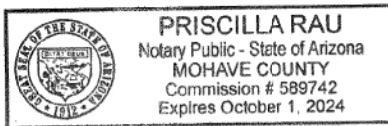
Paradyme Havasu Storage, LLC, a Delaware limited liability company.


By:   
Ryan Garland  
Manager

STATE OF Arizona )  
 ) ss.  
COUNTY OF Mohave )

On September 11, 2024 before me, Priscilla Rau, personally appeared Ryan Garland, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature(s) on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



  
SIGNATURE OF NOTARY PUBLIC

(S E A L)

# Exhibit 1

**SECOND AMENDED AND RESTATED  
CONDOMINIUM DECLARATION  
FOR  
PARADYME HAVASU STORAGE  
AND  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Condominium Declaration for Paradyme Havasu Storage, and Declaration of Covenants, Conditions and Restrictions (“Declaration”), is made as of May \_\_, 2024, Paradyme Havasu Storage, LLC, a Delaware limited liability company (hereinafter referred to as “Declarant”).

**RECITALS**

A. Declarant is the sole owner of certain real property and Improvements thereon situated at 80 Retail Centre Boulevard in Lake Havasu City, County of Mohave, State of Arizona, 86404 which is more particularly described on Exhibit A attached hereto (herein referred to as the “Condominium” or the “Property”);

B. The Declarant has recorded a condominium plat at Instrument No. 2023027158, Official Records of Mohave County, showing Phase I of the Condominium on Parcel “A” therein and showing Parcel “B” reserved for future Phases (the “Plat”).

C. Declarant desires to submit all Units, including those to be constructed in future Phases, to a condominium plan of description, development and ownership pursuant to the Condominium Act (as defined herein) and to otherwise establish for its own benefit with respect to the Property and in connection with its ownership of adjacent property and for the mutual benefit of all future Unit Owners, Lessees and Occupants (as such terms are hereinafter defined) of the Property or any part thereof, certain easements and rights in, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof.

D. Declarant desires and intends that the Unit Owners, Occupants and all other Persons (as such terms are hereinafter defined) hereafter 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 shall run with the land and be binding upon the Property and all Persons having or acquiring any right, title or interest in or to any part of the Property, and shall inure to the benefit of and are declared to be in furtherance of a plan to promote and protect the cooperative use, conduct and maintenance of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness thereof.

NOW, THEREFORE, Declarant, for all the purposes set forth herein including the Recitals set forth above, and for such other purposes herein set forth, declares as follows:

**ARTICLE 1  
DEFINITIONS; SPECIAL RIGHTS**

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

**1.2 Defined Terms and Rights Relating Thereto.** The following capitalized terms shall have the general meanings described in the Condominium Act and for purposes of this Declaration shall have the specific meanings set forth below, and all rights set forth below in this section are hereby granted, reserved, and established unless expressly provided otherwise or limited elsewhere in this Declaration:

**1.2.1 “Alleged Defect”** means any alleged defect or deficiency in the planning, design, engineering, grading, construction or development of the Common Elements or any Unit including, without limitation, any claim or cause of action that the Common Elements or the Units are defective or that the Declarant, its agents, contractors, employees, subcontractors, architects, engineers or consultants were negligent in the planning, design, engineering, grading, construction or development thereof.

**1.2.2 “Articles”** means the Articles of Incorporation of the Association, as amended from time to time.

**1.2.3 “Assessments”** means the Common Expense Assessments, Special Assessments and Enforcement Assessments levied and assessed against each Unit Owner or other Person pursuant to Article 7 of this Declaration.

**1.2.4 “Assessment Lien”** means the lien granted to the Association by the Condominium Act and this Declaration to secure the payment of Assessments, monetary penalties and other charges owed to the Association.

**1.2.5 “Association”** means Paradyme Storage Community Association, Inc. an Arizona non-profit corporation, and its successors and assigns.

**1.2.6 “Board of Directors”** means the Board of Directors of the Association.

**1.2.7 “Building”** means a commercial building built upon the Property.

**1.2.8 “Bylaws”** means the Bylaws of the Association, as amended from time to time.

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

**1.2.10 “Common Elements”** means all portions of the Condominium other than the Units.

**1.2.11 “Common Expenses”** means the actual or estimated costs or expenses incurred or to be incurred by the Association or financial liabilities of the Association together with any allocations to reserves, including, without limitation, the following:

(a) the cost of inspection, maintenance, management, operation, repair and replacement of the Common Elements and all other areas within the Condominium which are maintained by the Association and all Improvements thereon;

(b) the cost of any utilities, trash pickup and disposal, landscaping and other services which serve the Units and/or the Common Elements and which the Association has assumed liability for such utilities and services except to the extent such utilities and services are separately metered or billed to specific Units;

(c) the cost of insurance premiums for fire, liability, worker’s compensation, errors and omissions and directors, officers and agents liability, and any other insurance that may be required for the Association, the Condominium or that the Board of Directors determines advisable to obtain, including the costs of bonding the members of the Board of Directors, officers and employees of the Association, any professional managing agent or any other Person handling the funds of the Association or acting on behalf of the Association;

(d) the cost of compensation, wages, materials, services, supplies and other expenses required for the administration, management, operation, maintenance and repair of the Condominium and the Association; including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, architects, employees and others;

(e) the costs of rendering to the Unit Owners all services required to be rendered by the Association under the Condominium Documents;

(f) such other funds as may be necessary to provide general operating reserves and reserves for contingencies and replacements deemed appropriate by the Board of Directors or otherwise required pursuant to the Condominium Documents;

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

(h) a management fee to be paid Declarant in the amount of nine percent (9%) of all Common Expenses, which fee shall be Declarant’s exclusive means of recovering its overhead and indirect expenses related to maintenance of the Common Area (irrespective of Declarant’s actual costs); and

(i) the cost of any other item or items incurred by the Association for any reason whatsoever in furtherance of the purposes or the discharge of the obligations imposed on the Association by the Condominium Documents or the Condominium Act.



**1.2.12 “Common Expense Assessment”** means the assessment levied against the Units pursuant to Section 7.2 of this Declaration.

**1.2.13 “Common Expense Liability”** means the liability for Common Expenses allocated to each Unit by this Declaration.

**1.2.14 “Condominium”** means the real property located in Mohave County, Arizona, which is described in Exhibit A attached to this Declaration, together with all Buildings and other Improvements located thereon now or in the future.

**1.2.15 “Condominium Act”** means the Arizona Condominium Act set forth in A.R.S. § 33-1201, *et seq.*, as amended from time to time.

**1.2.16 “Condominium Documents”** (or “Governing Documents”) means this Declaration, the Articles, Bylaws and Rules, as amended from time to time.

**1.2.17 “Declarant”** means Paradyme Havasu Storage, an Arizona limited liability company, and its successors and assigns or any Person to whom it may transfer any Special Declarant Rights in accordance with the Condominium Act or this Declaration.

**1.2.18 “Declarant Party” or “Declarant Parties”** means collectively Declarant, Declarant’s general partner or officers, Declarant’s builders, general contractors or brokers, or their agents or employees.

**1.2.19 “Declaration”** means this Condominium Declaration, as amended from time to time.

**1.2.20 “Development Rights”** means the right or combination of rights, which are hereby established, reserved by and granted to the Declarant, subject only to the Condominium Act or as expressly provided otherwise herein, to do any of the following:

- (a) add real estate to and expand the Condominium;
- (b) create easements, Units, Common Elements or Limited Common Elements within the Condominium;
- (c) subdivide Units, convert Units into Common Elements or convert Common Elements into Units;
- (d) withdraw real estate from the Condominium;
- (e) make the Condominium part of a larger condominium;
- (f) develop, improve and operate all or parts of the Property, including future phases, without limitation except as provided in this Declaration.

(g) amend this Declaration during the Period of Declarant Control to comply with the Condominium Act or any other applicable law, or to correct any error or inconsistency in this Declaration if the amendment does not have a material adverse effect on the rights or interests of the Unit Owners; and

(h) amend this Declaration during the Period of Declarant Control to comply with the laws, ordinances, regulations, rules, guidelines, or other requirements in effect from time to time, of any state, federal, county, city or other governmental or quasi-governmental entity.

**1.2.21 “Enforcement Assessment”** means an assessment levied pursuant to Section 7.4 of this Declaration.

**1.2.22 “Improvement”** means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Condominium, including, but not limited to, Buildings, private drives, walkways, paving, fences, walls, monument signs, gates, hedges, plants, trees and shrubs of every type and kind.

**1.2.23 “Invitee”** means any Person whose presence within the Condominium is approved by or is at the request of a particular Unit Owner, Lessee or Occupant, including, without limitation, family members, guests, employees, customers, clients, patients, and contractors.

**1.2.24 “Lessee”** means any Person who is the tenant or lessee under a lease of a Unit.

**1.2.25 “Limited Common Elements”** means a portion of the Common Elements specifically designated in this Declaration or pursuant to the provisions hereof as a Limited Common Element, and allocated by this Declaration or pursuant to the provisions hereof or by operation of the Condominium Act, for the exclusive use of one or more, but fewer than all, of the Units.

**1.2.26 “Maintenance Standard”** means the standard or quality of maintenance of Improvements from time to time as determined by the Board of Directors.

**1.2.27 “Member”** means any Person who is or becomes a member of the Association.

**1.2.28 “Office Condominium Unit”** shall refer to that Unit as designated on the Plat for use as an office, together with that Unit’s pro rata share of the Common Elements.

**1.2.29 “Occupant”** means a Person, other than a Unit Owner, in possession of a Unit at the request of or with the consent of the Unit Owner.

**1.2.30 “Parking Space”** means a portion of the Condominium intended for the parking of a single motor vehicle determined by the Declarant from time to time in its sole and absolute discretion.

**1.2.31 “Party Wall”** means a demising wall located between two Units. The boundaries of the Party Wall shall be the interior unfinished surfaces of the Party Wall. A Party Wall shall not include any lath, furring, wallboard, plasterboard, plaster, paint, wallpaper, paneling or other material constituting any part of the finished surfaces of the Party Wall. The term “Party Wall” includes a demising wall.

**1.2.32 “Perimeter Building Walls”** means the perimeter walls of the Building, including all windows and doors, but excluding (a) any fixtures, lines, pipes, wires, ducts or conduits within the wall which serve only one Unit and (b) any lath, furring, wallboard, plasterboard, plaster, paint, wallpaper, paneling or other materials constituting any part of the finished surfaces of the interior surface of the perimeter walls.

**1.2.33 “Period of Declarant Control”** means the time period commencing on the date this Declaration is recorded in the Official Records of the County Recorder for Mohave County, Arizona, and ending on the earliest of: (a) conveyance of all of the Units that may be created to Unit Owners other than the Declarant; (b) such date as Declarant declares to be the termination of the Period of Declarant Control in a document recorded with the County Recorder’s Office for Mohave County, Arizona; or (c) four (4) years after Declarant has ceased to offer Units for sale.

**1.2.34 “Person”** means, by way of example, and not by limitation, a natural person, corporation, estate, trust, partnership, limited liability company, association, joint venture, government or quasi-governmental entity, governmental subdivision or agency, and any other legal or commercial entity.

**1.2.35 “Phase”** means the construction and completion of a new, additional Building comprised of additional Units.

**1.2.36 “Plat”** means any of the condominium plats recorded by Declarant in the Official Records of Mohave County showing Units within the Condominium. Declarant will record a new Plat for each subsequent phase of the Condominium. Any specific Plat may be referred to by the stating the roman numeral (*e.g.*, I, II or III) followed by “Plat.” For example, Fee No. 2023027158 in the Official Records of Mohave County is referred to as the “*Phase I Plat.*”

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

**1.2.38 “Rules”** means the rules and regulations adopted by the Association, as amended from time to time.

**1.2.39 “Special Declarant Rights”** means the right or combination of rights which are hereby established, reserved by, or granted to the Declarant in this Declaration or by the Condominium Act. In addition, unless expressly provided otherwise elsewhere in this Declaration, Declarant shall have the right to do any of the following:

- (a) construct Improvements provided for in this Declaration or shown on the Plat;
- (b) exercise any Development Right;
- (c) maintain sales and management offices, models, signs and any other actions which Declarant believes to be reasonably necessary or desirable to market and sell the Units;
- (d) use easements through the Common Elements for the purpose of making Improvements within the Condominium or within real estate which may be added to the Condominium;
- (e) develop, improve, and operate all or parts of future Phases containing Units within the Condominium; and
- (f) appoint or remove any officer of the Association or any member of the Board of Directors during the Period of Declarant Control.

**1.2.40 “Unit”** means a portion of the Condominium designated for separate ownership or occupancy and designed or intended for independent use as a storage unit, together with the pro rata fractional interest in the Common Elements and any exclusive and no-exclusive easement appurtenant thereto. The boundaries of each Unit are shown on their respective Plat and described in Section 2.5.

**1.2.41 “Unit Owner”** means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Unit. Unit Owner shall not include Persons having an interest in a Unit merely as security for the performance of an obligation, or a Lessee of a Unit. Unit Owner shall include a purchaser under a contract for the transfer of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract subject to A.R.S. § 33-741, *et seq.* or succeeding laws. Unit Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of Units, the fee simple title to which is vested in a trustee pursuant to A.R.S. § 33-801, *et seq.*, the trustor shall be deemed to be the Unit Owner.

## ARTICLE 2 SUBMISSION OF PROPERTY; UNIT BOUNDARIES, ALLOCATION OF

## PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES

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

**2.1.1** Pursuant to the Condominium Act, the Declarant has divided some of the Property into the Units and Common Elements described in Section 2.5 as provided and shown on the Plat.

**2.1.2** Declarant further declares that all of the easements, restrictions, conditions and covenants in this Declaration shall run with the land and shall be binding upon and inure to the benefit of the Declarant and all Unit Owners, Lessees and Occupants and all other Persons having or acquiring any right, title or interest in the Condominium or any part thereof, their heirs, successors, successors in title and assigns. Each Person who acquires any right, title or interest in the Property, or any part thereof, agrees to abide by all of the provisions of the Condominium Documents. This Declaration shall be binding upon and shall be for the benefit of and enforceable by the Unit Owners and the Association as provided herein. Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of the Condominium Documents, or as to the compliance of any of the provisions of the Condominium Documents with public laws, ordinances and regulations applicable thereto.

**2.2 Name of Condominium.** The name of the Condominium created by this Declaration is "Paradyne Havasu Storage."

**2.3 Name of Association.** The name of the Association is "Paradyne Community Association"

**2.4 Identifying Numbers of Units.** The identifying numbers of the Units are set forth on the Plat and are as follows: each unit will be identified by a letter followed by three (3) numbers. The letter will denote which building the unit is in and the numbers identify the specific unit within said building. For example, A101 would be for unit 101 in building A.

### **2.5 Unit Boundaries.**

**2.5.1** The boundaries of each Unit are as follows:

the vertical boundaries are the exterior surfaces of the Perimeter Building Walls (and the exterior surface of any windows or doors in the Perimeter Building Walls) of the Building and a vertical plane running through the center of any Party Wall separating the Unit from another Unit and such boundaries as reflected on their respective Plat;

the upper horizontal boundary is set forth on their respective Plat;

the lower horizontal boundary is set forth on their respective Plat; and

**2.5.2** All spaces, interior partitions and other fixtures and improvements (including, but not limited to, chutes, flues, wires, conduits, heating and air conditioning units, hot water heaters and gas, cable television, water and electric pipes, lines or meters, interior walls, garage doors etc.) within the boundaries of a Unit and which serve only the Unit are part of the Unit, and any such fixtures or improvements located within the boundaries of a Unit but which serve more than one Unit or which serve any portion of the Common Elements are part of the Common Elements.

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

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

**2.5.5** Declarant reserves the right to relocate the boundaries between adjoining Units owned by the Declarant and to reallocate each such Unit's interest in the Common Elements, votes in the Association and Common Expense Liabilities subject to and in accordance with A.R.S. Section 33-1222.

## **2.6 Allocation of Common Element Interest and Common Expense Liabilities.**

**2.6.1** Each Unit is allocated a percentage of undivided interests in the Common Elements and in the Common Expenses calculated by dividing the square footage of each Unit by the square footage of all Condominium Units. The square footage of each Unit is shown on their respective Plat. The square footages of the Units and the percentage of undivided interests in the Common Elements and in the Common Expenses are set forth on Exhibit B attached hereto which shall govern and control in the event of any conflict with the Plat. Upon completion of vertical Improvements to Parcel B on the Phase I Plat, the square footages of the Units and the percentage of undivided interests in the Common Elements and in the Common Expenses shall be revised, and Exhibit B hereto shall be updated. The percentage of interest of each Unit in the Common Elements shall be an undivided interest, and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of interest. The ownership of each Unit shall not be conveyed separate from the percentage of interest in the Common Elements allocated to the Unit. The undivided percentage of interest in the Common Elements allocated to any Unit shall always be deemed conveyed or encumbered with any conveyance or encumbrance of that Unit, even though the legal description in the instrument conveying or encumbering the Unit may refer only to the fee title to the Unit.

**2.6.2** The square footage of each Unit and the percentage of interest of each Unit in the Common Elements and in the Common Expenses allocated to each Unit as set forth on Exhibit B attached hereto shall be deemed accurate and acceptable and shall be binding on each Unit Owner at such time as they become the Owner of a Unit.

**2.6.3** In the event that the Declarant modifies a Building size, completes a new Phase with additional Units, or a Unit owned by Declarant, Declarant may amend Exhibit B, without the consent of the Association or any other Unit Owner to reflect the new fractional interest of each Unit. If a Building size is modified by a Unit Owner as approved by the Board of Directors, no adjustment of the fractional interest of the Units shall occur.

**2.7 Allocation of Votes in the Association.** The total votes in the Association shall be 100, which shall be divided among the Unit Owners in accordance with their respective fractional interest in the Common Elements and Common Expense Liabilities (as set forth on Exhibit B attached hereto) multiplied by 100.

**2.8 Allocation of Limited Common Elements.** [Not used.]

**2.9 Relocation of Boundaries Between Adjoining Units.** The boundaries between or among adjoining Units may be relocated by an amendment to this Declaration.

**2.10 Subdivision of Units.** No Unit may be subdivided without the prior written consent of Declarant, so long as the Declarant owns any Unit. After the Declarant no longer owns any Unit, the Board of Directors shall have the right, with the approval of Members holding at least sixty-seven percent (67%) of the total number of votes entitled to be cast by Members, to approve any proposed subdivision of a Unit. Further, any construction, reconstruction, or removal of any demising wall by an Owner is subject to the prior written approval of the Board of Directors and an Arizona licensed architect or engineer's certification that such demising wall will not impair the structural integrity or the mechanical systems of a Building or lessen the support of any portion of the Condominium.

**2.11 Combination of Units.** If adjoining Units are owned by the same Person, the Owner of the adjoining Units may remove all or a portion of the demising wall between the adjoining Units provided the removal of a portion or the entire demising wall is approved by the Board of Directors prior to removal. The provisions of Section 4.3 shall apply to any request by an Owner of adjoining Units to remove all or a portion of the demising wall between the Units and to the removal of any demising wall approved by the Board of Directors. The Board of Directors shall not approve the request unless the Board of Directors is satisfied that the removal of the demising wall will not impair the structural integrity or mechanical systems of the Building or lessen the support of any portion of the Condominium. The fact that a demising wall between adjoining Units is removed with approval of the Board of Directors shall not affect the Units' percentage undivided interest in the Common Elements or the Units' Common Expense Liability. A demising wall between adjoining Units which is removed with approval of the Board of Directors may be constructed or reconstructed with the prior written approval of the Board of Directors. The Board of Directors shall not approve the request unless the Board of Directors is satisfied that the construction or reconstruction of the demising wall will not impair the structural

integrity or mechanical systems of the Building or lessen the support of any part of the Condominium. The provisions of Section 4.3 shall apply to any request by an Owner of adjoining Units to construct or reconstruct a demising wall between the Units owned by such Owner and to any construction or reconstruction of a demising wall approved by the Board of Directors.

### **ARTICLE 3 EASEMENTS AND DEVELOPMENT RIGHTS**

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

**3.2 Easements for Ingress and Egress.** There is hereby created an easement for ingress and egress for pedestrian traffic over, through and across improved sidewalks, paths, walks, and lanes that from time to time may exist upon the Units and the Common Elements. There is also created an easement for ingress and egress for pedestrian and vehicular traffic over, through and across such streets and parking areas as from time to time may be paved and located upon the Units, and the Common Elements and intended for such purposes. Such easements shall run in favor of and be for the benefit of the Unit Owners and Invitees.

#### **3.3 Unit Owners' Easements of Enjoyment.**

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

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

(b) The right of the Association to convey the Common Elements or subject the Common Elements to a mortgage, deed of trust, or other security interest, in the manner and subject to the limitations set forth in the Condominium Act;

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



(d) All rights and easements set forth in this Declaration including, but not limited to, the rights and easements granted to the Declarant by Sections 3.4 and 3.5 of this Declaration;

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

**3.3.2** The Invitees of any Unit Owner or other Person entitled to use the Common Elements pursuant to Subsection 3.3.1 may use the Common Elements provided they are accompanied by a Unit Owner or other Person entitled to use the Common Elements pursuant to Subsection 3.3.1. The Board of Directors shall have the right to limit the number of Invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by Invitees to certain specified times.

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

#### **3.4 Declarant's Rights and Easements.**

**3.4.1** Declarant shall have the right and an easement to maintain sales or leasing offices, management offices, storage areas, models and related facilities throughout the Condominium and to maintain one or more marketing, directional or advertising signs, banners, flags or similar items on the Units, the Common Elements and the Limited Common Elements, or elsewhere within the Condominium while the Declarant is marketing Units in the Condominium. Declarant reserves the right to place models, management offices, storage areas and sales and leasing offices on any Units or on any Buildings owned by Declarant and on any portion of the Common Elements and Limited Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

**3.4.2** So long as Declarant is marketing Units in the Condominium, Declarant shall have the right to restrict the use of the Parking Spaces. Such right shall include reserving such spaces for use by prospective Unit purchasers, Declarant's employees and others engaged in sales, leasing, maintenance, construction or management activities.

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

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

**3.4.5** In the event of any conflict or inconsistency between Section 3.4 and any other provision of the Condominium Documents, Section 3.4 shall control and prevail over such other provisions.

### **3.5 Declarant's Development Rights and Easements.**

**3.5.1** Declarant and its employees, agents, contractors and subcontractors shall have the right and an easement on, over and across the Common Elements and Units to construct the Common Elements, Buildings and the Units shown on the Plat and all other Improvements the Declarant may deem necessary and to use the Common Elements and any Units owned by Declarant for construction or renovation related purposes, including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work in the Condominium.

**3.5.2** The Declarant and its employees, agents, contractors and subcontractors shall have an easement through the Units, including the Building, for any access necessary to complete any construction, renovations, warranty work or modifications to be performed by Declarant.

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

**3.5.4** Declarant shall have the right and an easement on, over and under those portions of the Common Elements and Units for the purpose of maintaining and correcting drainage of surface, roof or storm water; however, nothing herein shall obligate Declarant to maintain or correct any such drainage conditions. The easement created by this subsection expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil or to take any other action reasonably necessary.

**3.5.5** To the extent not expressly reserved by or granted to Declarant by other provisions of this Declaration, Declarant reserves all Development Rights and Special Declarant Rights. Except as expressly set forth in this Declaration, there is no time limit within which any Development Right must be exercised or will lapse, and there are no conditions or limitations on the exercise of any Development Right or Special Declarant Right.

**3.5.6** In the event of any conflict or inconsistency between Section 3.5 and any other provision of the Condominium Documents, Section 3.5 shall control and prevail over such other provisions.

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

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

**3.7.1** The Common Elements and the Units shall be subject to an easement in favor of the Association and its agents, employees and contractors for the purpose of: (a) making emergency repairs to the Common Elements and those components of the Unit the Association is obligated to maintain pursuant to this Declaration; (b) inspection, upkeep, maintenance, repair and replacement of the Common Elements and those components of the Unit which the Association is obligated to maintain pursuant to this Declaration; (c) exercising all rights and powers of the Association and discharging all duties and obligations of the Association; (d) inspection of the Units and Limited Common Elements in order to verify the performance by Unit Owners of all items of maintenance and repair for which they are responsible; (e) correction of conditions (including, without limitation, broken or leaking water pipes, broken hot water heaters or obstructed sewer lines) in one or more Units or Limited Common Elements which have damaged or if left uncorrected could damage, the Common Elements, the Limited Common Elements or other Units; and (f) inspection of the Units and the Limited Common Elements in order to verify that the provisions of the Condominium Documents are being complied with by the Unit Owners, Lessees and Occupants of the Unit. Except in case of emergency, the Association shall only enter a Unit at reasonable times and upon reasonable notice to the Unit Owner or, if the Unit is leased, to the Lessee. In the event of any emergency, the Association may enter a Unit without prior notice to the Unit Owner or the Lessee, but promptly following the Association's entry into the Unit, the Association shall notify the Unit Owner or the Lessee of the nature of the emergency condition which require entry without notice.

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

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

**3.8.1** For the installation, repair, maintenance, use, removal or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication equipment, receptacles, panels, wiring and cables and all other utility lines and conduits which are

a part of or serve any Unit and which pass across, under, over or through a portion of the Common Elements or any other Unit if the installation was originally designed or constructed by or on behalf of Declarant or is subsequently approved by the Board of Directors and provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the common use of any part of the Common Elements.

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

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

#### **ARTICLE 4 USE AND OCCUPANCY RESTRICTIONS**

**4.1 Use of Units.** The Units shall be used, improved and occupied, with the liabilities set forth herein and used by the Owners exclusively for storage purposes conforming to all applicable zoning ordinances and requirements, and shall not be used for any other purpose, except as approved by the Declarant so long as the Declarant owns any Unit provided such use is permitted by all applicable zoning and other laws except that Declarant shall have the right to maintain sales and any other offices and signs on the Condominium, together with rights of ingress and egress therefrom, and to do such other acts and maintain such other facilities as are incidental to the development and sale of the Units now or hereafter existing. No Unit shall be allowed to be used, at any time, for living quarters or any residential use. The primary intended use of the Units is for storage of cars, trucks, off road vehicles, motorcycles, ATV's, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailers and other recreational vehicles, equipment, and gear.

#### **4.2 Utility Service and Antennas.**

**4.2.1** Except for lines, wires and devices existing on the Condominium as of the date of this Declaration or to be constructed by Declarant and maintenance and replacement of the same, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television and radio signals, shall be erected, placed or maintained anywhere in or upon the Condominium.

**4.2.2** No antenna, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the Condominium whether attached to the Building or otherwise, unless approved in writing by the Board of Directors, unless applicable law prohibits the Board of Directors from requiring such prior

approval. Even if applicable law prohibits the Board of Directors from requiring prior approval of certain types of antennas, satellite dishes or other devices, any such antennas, satellite dishes or other devices must be installed or constructed in accordance with such rules and regulations as the Board of Directors may adopt.

### **4.3 Improvements and Alterations.**

#### **4.3.1**

(A) A Unit Owner may hire any Person to construct improvements, alterations, and additions without the Association's approval provided that a Unit Owner shall use only licensed, reputable, and qualified (and where required, certified) contractors, who shall each carry general public liability insurance naming the Association as an additional insured, and worker's compensation insurance as required by law. A Unit Owner hiring a Person shall not be deemed an approval by the Association of the planned improvement. A Unit Owner who hires a Person to construct an improvement, alteration, or addition shall be responsible for any damage caused by that Person. All alterations, additions, and improvements shall be subject to and performed in accordance with all of the terms and provisions of this Declaration at the Unit Owner's sole cost and expense.

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

(C) No owner shall make any additions, alterations or improvements to the Perimeter Building Walls or any Party Wall without the Board of Directors' prior written approval of the drawings, plans, and specifications.

(D) No Unit Owner shall make any structural additions, alterations or improvements within a Unit, including the construction, reconstruction, or removal of a demising wall, unless prior to the commencement of each addition, alteration or improvement, the Unit Owner receives the Board of Directors' prior written approval of the drawings, plans, and specifications and an architect or engineer, licensed in Arizona, certifies that such addition, alteration or improvement will not impair the structural integrity or the mechanical systems of a Building or lessen the support of any portion of the Condominium.

(E) All improvements, alterations, and additions must be done (1) in a good and workmanlike manner, (2) using materials properly fit for the purpose, (3) in such a manner as does not void any contractor's manufacturer's or supplier's warranties existing in favor of the Association (4) subject to such rules, conditions, and restrictions as may be reasonably imposed by the Board of Directors, and (5) if applicable, in accordance with drawings, plans, and specifications approved in writing by the Board of Directors.

(F) If any structural or nonstructural work will require a worker to encroach on an area of the Property outside of the Unit, including but not limited to the Common Elements (an “**Encroachment**”), the Unit Owner must notify the Association of the Encroachment no later than twenty-one (21) calendar days in advance, and the Unit Owner must provide a description of the Encroachment to the best of their ability. An “Encroachment” includes but is not limited to, (1) blocking roadways and sidewalks with materials, vehicles, and tools, (2) workers using Common Elements, and (3) accessing a Building’s roof. The Board of Directors must approve of any Encroachment within seven (7) calendar days of the notice. The Board of Directors may deny approval of any Encroachment for any reason. The Board of Directors may approve an Encroachment with certain restrictions such as requiring the work be performed at certain times, making a Unit Owner responsible for any damages a worker causes to any property, requiring an insurance policy that is acceptable to the Board of Directors, or mandating proper signage for any hazard. If the Board of Directors does not respond to the notice, the Encroachment shall be considered approved.

(G) Upon completion, Unit Owner agrees to record a Notice of Completion in the County where the Property is located, as required or permitted by law, and to provide the Board of Directors with CAD and hard print “as-built” plans, and proof of payment for all labor and materials.

**4.3.2** No Unit Owner or Occupant shall make any addition, alteration or improvement to the Common Elements without the prior written approval of the Board of Directors.

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

**4.3.4** The Board of Directors may condition the approval of any proposed additions, alterations or improvements to a Unit or the Common Elements in any manner, including, without limitation: (a) restricting the time during which such work may be performed; (b) requiring the placement of a security deposit in an amount determined by the Board of Directors in an account controlled by the Board of Directors; (c) requiring the provision to the Board of Directors of plans and specifications prepared and sealed by a professional engineer duly licensed by the State of Arizona; and (d) requiring that the Unit Owner requesting the change obtain, prior to commencing any work, and maintain until completion of such work, comprehensive general liability insurance in such amounts as may be required by the Board of Directors. The Unit Owner shall be obligated to designate Declarant, the Association, the Board of Directors and any other Person designated by the Board of Directors as additional insureds under the policies. The Unit Owner shall be responsible for all costs incurred by the Board of Directors in connection with the Board of Director’s review of the Unit Owner’s proposed changes to such Unit Owner’s Unit, including, without limitation, all costs of architects, engineers and other professionals which may be retained by the Board of Directors to assist in their review. Any such costs not timely paid by

the Unit Owner shall be deemed an Enforcement Assessment which may be collected in the manner provided in Section 7.4 herein.

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

**4.3.6** The Association shall have the right to stop any work that is not in compliance with the terms contained in this Section 4.3 or any rules of the Association governing additions, alterations or improvements to the Units or the Common Elements. The Association's rights of review and approval of plans and other submissions under this Declaration are intended solely for the benefit of the Association. Neither Declarant, the Association nor any of the officers, directors, employees, agents, contractors, consultants or attorneys shall be liable to any Unit Owner or any other Person by reason of mistake in judgment, failure to point out or correct deficiencies in any plans or other submissions, negligence, or any other misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval of any plans or submissions. Without limiting the generality of the foregoing, the Association shall not be responsible for reviewing, nor shall its review of any plans be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements. Further, each Unit Owner agrees to indemnify and hold Declarant, the Association and their respective directors, officers, agents and employees harmless from and against any and all costs, claims (whether rightfully or wrongfully asserted), damages, expenses or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and court costs at all trial and appellate levels), arising out of any review, approval or disapproval by the Board of Directors of plans submitted by the Unit Owner or any Lessee or Occupant. No excavation or grading work shall be performed on any Unit without the prior written approval of the Board of Directors.

**4.3.7** The approval by the Board of Directors of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Board of Director's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

**4.3.8** Upon receipt of approval from the Board of Directors for any construction, installation, addition, alteration, repair, change or other work, the Unit Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change

or other work approved by the Board of Directors as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Board of Directors.

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

**4.3.10** The Board of Directors shall have the right to charge a fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section 4.3, which fee shall be payable at the time the application for approval is submitted to the Board of Directors.

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

**4.3.12** The approval by the Board of Directors of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section 4.3 shall not be deemed a warranty or representation by the Board of Directors as to the quality of such construction, installation, addition, alteration, repair, change or other work or that such construction, installation, addition, alteration, repair, change or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

**4.3.13** The approval required of the Board of Directors pursuant to this Section 4.3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

**4.3.14** Unit Owner shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for Unit Owner at, on, or for use in the Unit Owner's Unit. Unit Owner shall keep the Common Elements and any interest therein, free and clear of all mechanics' liens and all other liens. Unit Owner shall give the Board of Directors immediate written notice of any lien filed against the Common Elements or any interest therein related to or arising from work performed by or for the Unit Owner. Unit Owner shall give the Board of Directors not less than ten (10) days' prior written notice of the commencement of the Unit Owner's work in their Unit, and the Board of Directors shall have the right to post notices of non-responsibility in or upon the Property as provided by law. If Unit Owner shall in good faith contest the validity of any such lien, claim or demand, then Unit Owner, at its sole expense, shall defend, indemnify, protect and hold the Property, the Association and the Board of Directors harmless against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against the Unit Owner, Board of Directors, the Property, or the Association. Upon the Board of Director's request, Unit Owner shall furnish to the Board of Directors a corporate surety bond, satisfactory to Board of Directors, in an amount equal to one and one-half (1½) times the amount of such contested lien, claim or demand, indemnifying the Association and Unit Owner from liability for any such lien, claim or demand and holding the Property and Common Elements free and harmless from and against the effect of any such lien, claim or demand, and causing the release and reconveyance of said lien from the Property and Common Elements. In addition, the Board of Directors shall have the right to require that Unit



Owner pay the Association's attorneys' fees and disbursements, court costs and other costs in defending any such action if the Association is named as a party to any such action, the lien encumbers any portion or interest in the Property and/or if the Board of Directors elects to defend any such action or lien.

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

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

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

**4.7 Motor Vehicles.** Except for emergency repairs, no automobile, van, truck, motorcycle, motorbike or other motor vehicle of any kind (herein collectively referred to as a "motor vehicle") nor any other item shall be constructed, reconstructed, serviced or repaired on any portion of the Condominium. No Unit Owner or Occupant of a Unit may park any automobile, motorcycle, motorbike or other motor vehicle upon any part of the Condominium except in the designated Parking Spaces or within a Unit as otherwise provided herein. In addition to the provisions set forth in this Declaration, the Board of Directors may establish such other reasonable rules and regulations regarding these matters as deemed appropriate by the Board.

**4.8 Trucks, Trailers, Campers and Boats.** Except as otherwise provided herein, no mobile home, travel trailer, tent trailer, trailer of any other kind, camper shell, detached camper, recreational vehicle, boat, boat trailer, or any other similar equipment or vehicle may be parked, kept, maintained, constructed, reconstructed or repaired on any part of the Condominium except any such trailers maintained by Declarant during the construction of any Units.

**4.9 Animals.** No animals, birds, reptiles, fowl, poultry or livestock shall be maintained or kept in any Unit or on any other portion of the Condominium. However, occasional domesticated house pet visitation shall be permitted.

**4.10 Towing of Vehicles.** The Board of Directors shall have the right to have any automobile, sport utility vehicle, van, truck, recreational vehicle, motorcycle, motorbike, or other motor vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Condominium Documents towed away at the sole cost and expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment.

**4.11 Signs.** No signs (including, but not limited to, "For Sale" signs) shall be permitted on the exterior of any Building or in the interior of a Unit if the signs would be visible from the exterior of the Building in which the Unit is located, or on any other portion of the Condominium without the prior written approval of the Board of Directors, which shall not be unreasonably withheld. The Board of Directors may permit signs identifying the Unit Owner, Lessee or Occupant of a Unit to be installed on the outside of the Building in which a Unit is located provided that the location, size, color, style and appearance of the sign is acceptable to the Board of Directors, and the Board of Directors may permit such sign to be placed at any location on the outside of the Building that is acceptable to the Board of Directors. The design criteria for all signs should be established by the Board of Directors as appropriate from time to time, however the Declarant shall determine such sign criteria so long as the Declarant is the owner of any Unit which is for sale to the public. In addition to the approval of the Board of Directors required by this Section, any sign must also comply with the ordinances of the Lake Havasu City, Arizona.

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

**4.13 Nuisances and Offensive Activity.** No nuisance shall be permitted to exist or operate upon the Condominium, and no activity shall be conducted upon the Condominium which is offensive or detrimental to any portion of the Condominium or any Unit Owner, Lessee or Occupant or is an unreasonable annoyance to any Unit Owner, Lessee or Occupant or which unreasonably interferes with the quiet enjoyment of a Unit by a Unit Owner, Lessee or Occupant. No loud music or other loud noises originating from inside or outside of a Unit shall be allowed if such music or noise disturbs neighboring Unit Owners, and no exterior speakers, horns, whistles, bells or other sound devices, except security or other emergency devices used exclusively for security or emergency purposes, shall be located, used or placed on or in any Unit or on the Condominium without the prior written approval of the Board of Directors.

**4.14 Window Coverings.** No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar items, shall be installed or placed upon the outside or inside of any windows of a Unit without the prior written approval of the Board of Directors. No enclosures, drapes, blinds, shades, screens or other items affecting the exterior appearance of a Unit, whether installed on the interior or exterior of the Building, shall be constructed or installed without the prior written consent of the Board of Directors.

**4.15 Leases.** No Owner may lease less than the Owner's entire (the "Premises"). All leases must provide that the terms of the lease are subject in all respects to the provisions of the Documents and that any violation of any of the foregoing by the Lessee, any other person residing on the Premises, or their guests or invitees, during the lease term shall be a default under the lease, and, if such default is determined by the Board to constitute a nuisance or detract from the general welfare of Paradyme Havasu Storage, the lease shall automatically terminate. No Premises may be rented or leased for a term of thirty (30) days or less and no Premises may be leased more than three (3) times during any consecutive twelve (12) month period without the prior written approval of the Board. Within seven (7) days following the execution and delivery of a lease of a Premises, the Owner shall provide the Association with a fully executed copy thereof (the monetary terms of which may be deleted) or warrant to the Association the terms thereof comply with this Section 4.15, and with the address and telephone number at which the Owner can be contacted by the Association during the lease term. The Owner shall also provide the Association with a fully executed copy of any amendment to a lease of a Premises or warrant to the Association the terms thereof comply with this Section 4.15, if any, within seven (7) days following the execution and delivery thereof, and such lease, as amended, must continue to comply with the provisions of this Section 4.15. The Owner shall notify the Association in writing within fifteen (15) days following the termination of a lease for any reason prior to the expiration of the lease. An Owner must provide the Lessee with copies of the Documents. The Owner shall be liable for any violation thereof by the Lessee, or any other person residing in the Premises, or their guests or invitees, during the lease term.

**4.15.1** Owner or Lessee shall pay a \$25.00 rental fee to the Association pursuant to any lease agreement entered into in accordance with this Section 4.15 and the Declaration.

**4.15.2** Within seven (7) days after taking occupancy of the Premises, the Lessee shall register with the Association and furnish all information reasonably requested by the Association. If the Lessee does not register within seven (7) days, Lessee shall pay a late fee of \$15.00.

**4.15.3** Any lease agreement must include an addendum that states that the Unit may not be used for any criminal activity.

**4.15.4** The Association may lawfully enforce a provision in the Documents that restricts a Lessee who is a person who is required to be registered under A.R.S. § 13-3821 and who is classified as level two or level three offenders.

**4.15.5** The Owner of a Unit who leases the Unit to a Lessee shall abate any and all criminal activity as authorized under A.R.S. § 12-991.

**4.16 Variances.** The Board of Directors may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article 4 if the Board of Directors determines in its discretion that: (a) a restriction would create an unreasonable hardship or burden on a Unit Owner or Occupant or a change of circumstances since the recordation of this Declaration had rendered such restriction obsolete; and (b) the activity permitted under the

variance will not have any substantial adverse effect on Unit Owners and Occupants and is consistent with the high standards intended for Occupants and Owners of the Condominium. No variances shall be granted pursuant to this Section unless also approved in advance by the Declarant so long as the Declarant owns any Unit which is for sale to the public.

**ARTICLE 5**  
**MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS**

**5.1 Duties of the Association.**

**5.1.1** The Association shall inspect, maintain, repair and replace all Common Elements. In addition, the Association shall maintain, repair and replace the Perimeter Building Walls. The cost of all such inspection, maintenance, repairs and replacements shall be a Common Expense assessed to the Units as provided in Section 7.2 and shall be paid for by the Association. The Board of Directors shall be the sole judge as to the appropriate maintenance, repair and replacement of all Common Elements, but all Common Elements shall be maintained in good condition and repair at all times. No Unit Owner, Lessee, Occupant or other Person shall construct or install any Improvements on the Common Elements or alter, modify or remove any Common Elements without the prior written approval of the Board of Directors. No Unit Owner, Lessee, Occupant or other Person shall obstruct or interfere with the Association in the performance of the Association's maintenance, repair and replacement of the Common Elements.

**5.1.2** The Association shall inspect, maintain, repair and replace that portion of the Condominium designated as parking including all of the Parking Spaces which includes those Parking Spaces which have been designated as Limited Common Elements and the Association shall inspect, maintain, repair and replace any other portions of the Units and Limited Common Elements which the Board of Directors approves, and the cost of such inspection, maintenance, repair and replacement of the parking areas of the Condominium, including all of the Parking Spaces, and any other portions of the Units and the Limited Common Elements which the Board of Directors deems appropriate for the Association to inspect, maintain, repair and replace shall be a Common Expense assessed to the Units as provided in Section 7.2 and shall be paid for by the Association.

**5.2 Duties of Unit Owners.** Each Unit Owner shall maintain, repair and replace, at such Unit Owner's own expense, all portions inside of such Unit Owner's Unit and all Improvements thereon in a good, clean and sanitary condition except any portion of a Unit which the Board of Directors may have determined appropriate for the Association to inspect, maintain, repair and replace in which case such portion of a Unit, if any, shall be inspected, maintained, repaired and replaced by the Association and the cost of such inspection, maintenance, repair and replacement shall be a Common Expense assessed to the Units as provided in Section 7.2 of this Declaration and shall be paid for by the Association. Notwithstanding the foregoing, unless and until such time as the Board of Directors notifies any Unit Owner that any portion of such Unit Owner's Unit which is not currently maintained by the Association but which the Board has repaired will be inspected, maintained, repaired and replaced by the Association, each Unit Owner shall inspect, maintain, repair and replace, at such Unit Owner's own expense, such Unit Owner's Unit as required herein. In addition, each Unit Owner shall be responsible for the maintenance and

repair of any of the Limited Common Elements allocated to his Unit which the Board of Directors determines appropriate for the Owners to maintain rather than the Association.

### **5.3 Combined Duties of Association and Unit Owners.**

**5.3.1** The Association shall maintain, repair and replace, as needed, all waste disposal facilities and waste collection fees at the Condominium, except those facilities located within the Units, if any.

**5.3.2** The Association and the Owners shall perform such confined duties as may be otherwise provided for in this Section 5 and as may be otherwise determined by the Board of Directors as provided herein or as may be otherwise agreed upon between the Association and the Unit Owners.

**5.4 Repair or Restoration Necessitated by Unit Owner.** Each Unit Owner shall be liable to the Association, to the extent permitted by Arizona law, for any damage to the Common Elements or the Improvements thereon, landscaping or equipment thereon or to any portion of the Units for which the Association has the responsibility to maintain, which results from the negligence or willful misconduct of the Unit Owner or the Unit Owner's Invitees. The cost to the Association of any such repair, maintenance or replacements required by such act of a Unit Owner or the Unit Owner's Invitees shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any such amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments in Article 7.

**5.5 Unit Owner's Failure to Maintain.** If a Unit Owner fails to maintain in accordance with the Maintenance Standard or other rules of the Association the Unit which a Unit Owner is obligated to maintain under this Declaration or any other recorded document and the required maintenance, repair or replacement is not performed within fifteen (15) days after written notice has been given to the Unit Owner by the Association, the Association shall have the right, but not the obligation, to perform the required maintenance, repair or replacement and the cost of any such maintenance, repair or replacement shall be assessed against and collected from the nonperforming Unit Owner in the manner provided for in this Declaration for the collection of Assessments pursuant to Article 7.

**5.6 Managing Agent.** The Association may employ the services of a managing agent.

## **ARTICLE 6 THE ASSOCIATION; RIGHTS AND DUTIES; MEMBERSHIP**

**6.1 Rights, Powers and Duties of the Association.** The Association shall be organized as a nonprofit Arizona corporation. The Association shall be the entity through which the Unit Owners shall act.

The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Condominium Documents together with such rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes of the Association as set forth in this Declaration and the Condominium Act. The Association shall have the right to finance capital improvements in the Condominium by encumbering future Assessments if such action is approved by the written consent or affirmative vote of Unit Owners holding no less than two-thirds (2/3) of the votes in the Association. Unless the Condominium Documents or the Condominium Act specifically requires a vote of the Members, the Board of Directors may act in all instances on behalf of the Association. Notwithstanding anything herein to the contrary, so long as the Declarant owns any Unit, the prior written consent of the Declarant shall be required to any decision by the Association to establish self-management when professional management previously had been in place. The Association has the specific duty to make available to the Declarant and Unit Owners and their authorized agents current copies of the Declaration, Bylaws, Articles, Rules and other books, records and financial statements of the Association as may be requested from time to time by such parties, except those books, records and financial statements which by law may be withheld from disclosure. Such requests shall be in writing, and the Association shall have the right to charge for copying expenses.

## **6.2 Directors and Officers.**

**6.2.1** During the Period of Declarant Control, the Declarant shall have the right to appoint and remove the members of the Board of Directors and the officers of the Association, who do not have to be Unit Owners. The initial directors and officers of the Association shall be designated in the Articles, and such persons, shall serve until their death, resignation or removal from office. Upon the termination of the Period of Declarant Control, the Unit Owners shall elect the Board of Directors, which must consist of at least three (3) Members, all of whom must be Unit Owners. The Board of Directors elected by the Unit Owners shall then elect the officers of the Association.

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

**6.3 Rules.** The Board of Directors, from time to time and subject to the provisions of this Declaration and the Condominium Act, may adopt, amend, and repeal rules and regulations. The Rules may, among other things, restrict and govern the use of the Units and the Common Elements, the use of any area by any Unit Owner or by any Invitee, licensee or lessee of such Unit Owner; provided, however, that the Rules may not unreasonably discriminate among Unit Owners and shall not be inconsistent with the Condominium Act, this Declaration, the Articles or Bylaws. A copy of the Rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Unit Owner but shall not be recorded unless approved by the Board of Directors.

**6.4 Composition of Members.** Each Unit Owner shall be a Member of the Association. The membership of the Association at all times shall consist exclusively of all the Unit Owners. Membership in the Association shall be mandatory. An Owner (including Declarant) of a Unit shall automatically, upon becoming the Unit Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as such Unit Owner's ownership ceases for any reason, at which time such Unit Owner's membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to each Unit and may not be separately assigned, transferred or conveyed.

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

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

**6.7 Voting Rights.** Subject to Section 6.8 below, each Unit Owner, including Declarant, shall be entitled to cast the number of votes for each Unit owned by such Unit Owner in accordance with the allocation set forth in Article 2 of this Declaration on any Association matter which is put to a vote of the membership in accordance with this Declaration, the Articles and/or Bylaws.

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

**6.9 Transfer of Membership.** The rights and obligations of any Member, other than the Declarant, shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership of a Unit Owner's Unit, and then only to the transferee of ownership to the Unit. A transfer of ownership to a Unit may be affected by deed, intestate succession,

testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Unit shall operate to transfer the membership appurtenant to said Unit to the new Unit Owner thereof. Each Purchaser of a Unit shall notify the Association of its purchase within ten (10) days after becoming the Owner of a Unit.

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

**6.11 Conveyance or Encumbrance of Common Elements.** The Common Elements shall not be conveyed or subjected to a mortgage, deed of trust or security interest without the prior written consent or affirmative vote of Unit Owners representing at least sixty-seven percent (67%) of the votes allocated to Unit Owners other than the Declarant. In addition, any conveyance, encumbrance, judicial sale or other transfer (whether voluntary or involuntary) of an individual interest in the Common Elements shall be void unless the Unit to which that interest is allocated also is transferred. Notwithstanding the foregoing, the Board of Directors, without a vote of the Unit Owners, may grant easements for ingress and egress to adjacent property owners over portions of the Common Elements already designated as roadways if such easements are required by Lake Havasu City, Arizona.

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

**6.13 Real Property Taxes.** The Association, at its election from time to time, shall have the authority for and on behalf of each Member and Unit to appeal, protest or otherwise take any action to reduce or minimize property taxes relating to all Units. The costs of all attorney's fees, appraiser's fees, expert's fees and other costs incurred by the Association with respect to the Association's efforts to minimize or reduce property taxes shall be a Common Expense.

## ARTICLE 7 ASSESSMENTS

### 7.1 Preparation of Budget.

**7.1.1** At least thirty (30) days before the beginning of each fiscal year of the Association, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board of Directors believes will be required during the



ensuing fiscal year to pay all Common Expenses including, but not limited, to: (i) the amount required to pay the cost of inspection, maintenance, management, operation, repair and replacement of the Common Elements and such portion of the Units and Limited Common Elements which the Association has the responsibility of inspecting, maintaining, repairing and replacing as provided in this Declaration; (ii) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (iii) the amount required to render to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; and (iv) such amounts as may be necessary to provide general operating reserves and reserves for contingencies and replacements. The budget shall separately reflect any Common Expenses to be assessed against less than all of the Units pursuant to Subsections 7.2.4 or 7.2.5.

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

**7.1.3** The Board of Directors is expressly authorized to adopt and amend budgets for the Association, and no ratification of any budget or amended budget by the Unit Owners shall be required.

## **7.2 Common Expense Assessment.**

**7.2.1** For each fiscal year of the Association commencing with the fiscal year in which the first Unit is conveyed to a Purchaser, the total amount of the estimated Common Expenses set forth in the budget adopted by the Board of Directors (except for the Common Expenses which are to be assessed against less than all of the Units pursuant to Subsections 7.2.4 and 7.2.5) shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in Article 2. The amount of the Common Expense Assessment assessed pursuant to this Subsection 7.2.1 shall be in the sole discretion of the Board of Directors. If the Board of Directors determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all Common Expenses for any reason, including, without limitation, nonpayment of Assessments by Members, the Board of Directors may increase the Common Expense Assessment for that fiscal year and the revised Common Expense Assessment shall commence on the date designated by the Board of Directors.

**7.2.2** The Common Expense Assessments shall commence as to all Units on the first day of the month following the conveyance of the first Unit to a Purchaser. The first Common Expense Assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors may require that the Common Expense Assessments or Special Assessments be paid in installments.

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

**7.2.4** If any Common Expense is caused by the misconduct of any Occupant, Lessee or Owner of a Unit, the Association shall assess that Common Expense exclusively against such Unit.

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

**7.2.6** There shall be no Common Expense Assessment for any Unit owned by the Declarant on which construction has not been substantially completed. For purposes of this Subsection, a Unit shall be deemed substantially completed when a Certificate of Occupancy or any similar act or document by the Lake Havasu City, Arizona or other governmental entity that is responsible for the inspection and approval of such property has been issued for the Unit. So long as any Unit owned by the Declarant is exempt from the Common Expense Assessment provided for in this Subsection, the Declarant shall be obligated to pay to the Association any deficiency which may occur as a result of the Declarant having been exempt from the Common Expense Assessment and necessary for the Association to be able to timely pay all Common Expenses.

**7.2.7** All Assessments, monetary penalties and other fees and charges levied against a Unit shall be the personal obligation of the Unit Owner of the Unit at the time the Assessments, monetary penalties or other fees and charges became due. The personal obligation of a Unit Owner for Assessments, monetary penalties and other fees and charges levied against his Unit shall not pass to the Unit Owner's successors in title unless expressly assumed by them but shall remain a lien on the Unit until paid.

**7.3 Special Assessments.** In addition to Common Expense Assessments, the Association may levy, in any fiscal year of the Association, a Special Assessment for any purpose including but not limited to the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto, or for any other lawful Association purpose, provided that any Special Assessment (other than a Special Assessment levied pursuant to Section 9.1 of this Declaration as a result of the damage or destruction of all or part of the Common Elements) shall have first been approved by Unit Owners representing two-thirds (2/3) of the votes in the Association who are voting in person or by proxy at a meeting duly called for such purpose. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied by the Association and notice of the Special Assessment is given to the Unit Owners. Any Special Assessment shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in Section 7.2, provided

that no Special Assessment may be levied against any Unit in future phases unless construction thereon has been substantially completed.

**7.4 Enforcement Assessment.** The Association may assess against a Unit Owner an Enforcement Assessment for any of the following expenses: (a) any Collection Costs incurred by the Association in attempting to collect Assessments or other amounts payable to the Association by the Unit Owner; (b) any attorney's fees (whether or not a lawsuit is filed) incurred by the Association with respect to any violation of the Condominium Documents by the Unit Owner or the Unit Owner's Lessees, Invitees or Occupants; (c) any monetary penalties levied against the Unit Owner; or (d) any amounts (other than Common Expense Assessments and Special Assessments) which become due and payable to the Association by the Unit Owner or the Unit Owner's Lessees, Invitees or Occupants pursuant to the Condominium Documents.

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

**7.5.1** Any Assessment, or any installment of an Assessment, which is not paid within fifteen (15) days after the Assessment first became due shall be deemed delinquent and shall bear interest from the date of delinquency at the rate of interest established from time to time by the Board of Directors and the Association may assess against the delinquent Unit Owner a late fee in the amount established from time to time by the Board of Directors.

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

**7.5.3** The Assessment Lien shall have priority over all liens or claims except for: (a) liens and encumbrances recorded before the recording of this Declaration; (b) liens for real property taxes; and (c) the lien of any first mortgage. Any mortgagee or any other Person acquiring title or coming into possession of a Unit through foreclosure of a mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid Assessments, monetary penalties and other fees and charges against the Unit which became payable prior to such sale or transfer. Any Assessments, monetary penalties and other fees and charges against the Unit which accrue prior to such sale or transfer shall remain the obligation of the defaulting Unit Owner. The Assessment Lien for any delinquent Assessments, monetary penalties and other fees and charges which is extinguished pursuant to this Section may be allocated and assessed to all Units as a Common Expense.

**7.5.4** The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien fees, fines, reasonable attorney's fees, court costs,

Collection Costs and all other sums payable to the Association by the Unit Owner of the Unit have been paid in full except as may be expressly provided herein.

**7.5.5** The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, monetary penalties and all other fees and charges owed to the Association in any manner allowed by law including, but not limited to: (a) bringing an action at law against the Unit Owner personally obligated to pay the delinquent amounts and such action may be brought without waiving the Assessment Lien securing any such delinquent amounts; or (b) bringing an action to foreclose its Assessment Lien against the Unit in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale.

**7.6 Exemption of Unit Owner.** Except for Declarant as permitted in this Declaration, no Unit Owner may exempt himself from liability for payment of Assessments, monetary penalties and other fees and charges levied pursuant to the Condominium Documents by waiver and nonuse of any of the Common Elements, Limited Common Elements or by the abandonment of his Unit, or in any other manner.

**7.7 Certificate of Payment.** The Association on written request shall furnish to a lienholder, Unit Owner or person designated by a Unit Owner a recordable statement setting forth the amount of unpaid Assessments against his Unit. The statement shall be furnished within fifteen (15) business days after receipt of the request (or such shorter time period as may be required by applicable law) and is binding on the Association, the Board of Directors, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement.

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

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

**7.10 Reserve Contribution.**

**7.10.1** Except for the Declarant and as provided in Subsection 7.10.3, each Person who purchases or otherwise becomes the Owner of a Unit shall pay to the Association, immediately upon becoming the Owner of a Unit, a Reserve Contribution of two-hundred dollars (\$200.00) is due. The amount may be changed by the Board of Directors from time to time. Until the expiration of the Period of Declarant Control, all Reserve Contributions shall be deposited into a separate reserve account and may be used by the Association only for the repair and replacement of

Common Elements and all other Improvements to be maintained by the Association pursuant to this Declaration.

**7.10.2** Payments made pursuant to this Section 7.10 shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

**7.10.3** No Reserve Contribution shall be payable with respect to: (a) the transfer or conveyance of a Unit by devise or intestate succession; (b) a transfer or conveyance of a Unit to a family trust, family limited partnership or other Person for bona fide estate planning purposes; (c) a transfer or conveyance of a Unit to a corporation, partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment of the Reserve Contribution in which case a Reserve Contribution shall be payable with respect to such transfer or conveyance; (d) the conveyance of a Unit by a trustee's deed following a trustee's sale under a deed of trust; or (e) a conveyance of a Unit as a result of the foreclosure of a realty mortgage or the forfeiture of foreclosure of a purchaser's interest under a recorded contract for the conveyance of real property subject to A.R.S. § 33-741, et seq.

**7.11 Reserves.** In addition to the Reserve Contributions, the budget adopted by the Board of Directors shall include reasonable amounts as determined by the Board of Directors collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Elements, or any other purpose as determined by the Board of Directors.

**7.12 Working Capital Fund.** To provide the Association with operating funds, each Purchaser of a Unit from the Declarant shall pay to the Association, immediately upon becoming the Owner of the Unit, a sum equal to two (2) monthly installments of the Common Expense Assessment for the Unit. Such amount shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

**7.13 Surplus Funds.** Surplus funds of the Association remaining after payment of the provisions for Common Expenses and any prepayment of reserves may, in the sole discretion of the Board of Directors, either remain in the reserves or as working capital, be returned to the Unit Owners pro rata in accordance with each Unit Owner's Common Expense Liability or be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Assessments. In no event shall the Association be compelled or obligated to return any surplus funds to a Unit Owner, and the Association shall have no liability in connection therewith.

## ARTICLE 8 INSURANCE

## 8.1 Scope of Coverage.

8.1.1 The Association shall maintain, to the extent reasonably available, the following insurance coverage:

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

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

(c) Broad form comprehensive commercial general liability insurance, for a limit to be determined by the Board of directors, but not less than \$1,000,000 for any single occurrence with an aggregate of \$2,000,000. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Such policy shall include (i) a cross liability clause to cover liabilities of the Unit Owners as a group to a Unit Owner, (ii) medical payments insurance and contingent liability coverage arising out of the use of hired and non-owned automobiles, and (iii) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party and (iv) a waiver of the contractual liability exclusion for personal injury.

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

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

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

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

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

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

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

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

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

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

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

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

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

**8.1.3** The Board of Directors may select deductibles applicable to the insurance coverage to be maintained by the Association pursuant to Section 8.1 in order to reduce the premiums payable for such insurance. The deductible, if any, on any insurance policy obtained by the Association shall be a Common Expense.

**8.1.4** Notwithstanding any of the other provisions of this Article to the contrary, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee who will have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. Each Unit Owner appoints the Association, or any insurance trustee or substitute insurance trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: (a) the collection and appropriate disposition of the proceeds thereof; (b) the negotiation of losses and execution of releases of liability; (c) the execution of all documents; and (d) the performance of all other acts necessary to accomplish such purpose.

**8.1.5** Notwithstanding anything herein to the contrary, the insurance coverages obtained by the Association as set forth herein may be modified by the Board of Directors as the Board reasonably deems appropriate and/or necessary to protect the Association, the Board of Directors and Officers, the Unit Owners, the Condominium, mortgagees and as otherwise determined by the Board. If any of the insurance coverages as provided herein are not obtained by the Board of Directors based upon the reasonable and good faith belief that such insurance coverage is not reasonably necessary or appropriate as determined the Board of Directors, the Board shall not be liable to any person, including the Unit Owners, or otherwise, as a result of failing to procure such insurance.

**8.2 Payment of Premiums.** Premiums for all insurance obtained by the Association pursuant to this Article shall be Common Expenses assessed to the Owners and shall be paid for by the Association.

**8.3 Payment of Insurance Proceeds.** Any insurance proceeds paid for any loss covered by property insurance obtained by the Association shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in A.R.S. § 33-1253 or as otherwise provided herein.

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

**8.5 Insurance Obtained by Unit Owners.** Unless otherwise approved by the Board of Directors, each Unit Owner shall obtain insurance at the Unit Owner's own expense covering the Unit Owner's Unit and all Improvements thereon in an amount equal to the maximum insurable replacement value of the Unit, the Unit Owner's personal property and providing personal liability coverage in an amount not less than \$1,000,000.00 for any single occurrence. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation of nonrenewal has been mailed to the Unit Owner and the Association. Each Unit



Owner shall provide evidence to the Association that all insurance required by this Section has been obtained, and if any Unit Owner fails to comply with the provisions of this Section, the Board of Directors shall be entitled to obtain, but shall not be obligated to obtain, the insurance for such Unit required by this Section. The cost of such insurance shall be paid by the Unit Owner, upon demand, to the Association. The Association may enforce collection of any amounts in the same manner and to the same extent as provided for in this Declaration for the collection of Assessments. If any insurer of liability shall require that each Unit Owner obtain and carry any additional insurance coverage for the Unit or personal property, then each Unit Owner shall comply with said requirements.

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

## ARTICLE 9 DESTRUCTION OF IMPROVEMENTS

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

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

**9.3 Distribution of Insurance Proceeds in the Event of Termination of the Condominium.** Notwithstanding any provisions of this Article 9 to the contrary, the distribution

of insurance proceeds resulting from the damage or destruction of all or any part of the Common Elements shall be distributed as provided in the Condominium Act in the event of a termination of the Condominium.

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

**9.5 Repair of Units.** Installation of Improvements to, and repair of any damage to, a Unit (including a Building) shall be made by and at the individual expense of the Unit Owner of that Unit and shall be completed as promptly as practicable and in a lawful and workmanlike manner.

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

## **ARTICLE 10 EMINENT DOMAIN**

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

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

acquired Unit shall automatically be reallocated to that Unit and the remaining Units in proportion to their respective interests immediately before the taking, with the partially acquired Unit participating in the reallocation on the basis of its reduced interest.

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

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

**10.5 Priority and Power of Attorney.** Nothing contained in this Article shall entitle a Unit Owner to priority over a mortgagee under a lien encumbering his Unit as to any portion of any condemnation award allocated to such Unit. Each Unit Owner hereby appoints the Association as the Owner's attorney-in-fact and agent for the purpose of negotiations and settlement with the condemning authority for the acquisition of the Common Elements, or any part thereof. This power of attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of a Unit Owner and all persons with an interest in the Unit.

## ARTICLE 11 RESERVATION OF DEVELOPMENT AND SPECIAL DECLARANT RIGHTS

Pursuant to the Condominium Act, Declarant reserves, and is hereby granted, all of the development rights and special declarant rights in the Condominium afforded under the Act as defined in A.R.S. § 33-1202(14) and § 33-1202(21), respectively, subject to the expiration deadlines set forth below. Specifically, but without limitation, Declarant reserves the following rights:

**11.1 Development Rights.** Declarant hereby reserves, for a period of ten (10) years following the recordation of this Declaration (or for such lesser period if specified by law with respect to any particular Development Right), the right to exercise all Development Rights under A.R.S. § 33-1202(14), and all Special Declarant Rights under A.R.S. § 33-1202(21), or such succeeding law.

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

**11.3 Offices, Model Offices and Promotional Signs.** Declarant reserves the right to maintain offices for sales and management and models as provided in Article 3, and to maintain signs on the Common Elements for so long as Declarant owns any portion of the Condominium.

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

**11.5 Merger or Consolidation.** Declarant reserves the right to merge or consolidate the Association with another condominium or development of the same form of ownership.

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

**11.7 New Units.** Any additional Phase created by Declarant will be subject to this Declaration. The Phase will be added to the Condominium by recording an amended Exhibit that shows the square footage of the Units and their respective ownership. Any new Phase will also record a Plat describing the new Units.

## **ARTICLE 12 LIMITATION OF LIABILITY AND ANNEXATION**

**12.1 Limitation on Declarant's Liability.** Notwithstanding anything to the contrary in any of the Condominium Documents or otherwise, each Owner, by accepting title to a Unit or otherwise any portion of the Condominium and becoming an Owner, acknowledges and agrees that neither the Declarant nor any officer, director, member, manager, principal, owner, agent, partner or shareholder of Declarant or the Declarant's successors or assigns (or any officer, director, member, manager, principal, owner, agent, partner, shareholder, of or in any such successor or assign) shall have any personal liability to the Association, to any Owner, Occupant, Lessee, Invitee or any other Person arising under, in connection with or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration or any of the Condominium Documents or by the Condominium Act or otherwise, except to the extent of the Declarant's (or its successors or assigns) interest in the Condominium; and, in the event of a judgment against Declarant no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the Declarant nor any officer, director, member, manager, principal, owner, agent, partner or shareholder of the Declarant or the Declarant's successors or assigns (or any officer, director, member, manager, principal, owner, agent, partner or shareholder of or in any such successor or assign).

**12.2 Non-Liability of Officials.** To the fullest extent permitted by law, neither Declarant (nor any officer, director, member, manager, principal, owner, agent, partner, or shareholder of Declarant), the Board, the Association any committees of the Association or any member thereof, nor any directors or officers of the Association, shall be liable to any Member, Owner, Occupant, Lessee, Invitee, the Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of drawings or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which Declarant, the Board, or such committees or such officers or directors of the Association, reasonably believed to be within the scope of their respective duties. To the fullest extent permitted by law, every director and officer of the Association, every member of any committee of the Association and the Declarant (and any officer, director, member, manager,

principal, owner, agent, partner, or shareholder of Declarant) shall be indemnified by the Association and every other Person serving as an employee or direct agent of the Association, or on behalf of the Association as a member of a committee or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including without limitation, attorney's fees and other expenses 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 served in such capacity on behalf of the Association (or in the case of Declarant, by reason of having appointed, removed or controlled or failed to control members of the Board or the Association) or any settlement thereof, whether or not he is a director, officer, member of a committee or serving in such other specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that such officer, director, member of any committee or other person or Declarant (and any officer, director, member, manager, principal, owner, agent, partner, or shareholder of Declarant), did not act, failed to act or refused to act with gross negligence or fraudulent or 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 persons may be entitled at law or otherwise including, but not limited to, any such insurance which may be available for such purposes.

**12.3 Annexation of Additional Property.** Additional real property may be annexed to and become subject to this Declaration as hereinafter set forth in this Article 12.

**12.3.1 Annexations.** Declarant may elect to annex additional real property to this Declaration in increments of any size whatsoever, or to annex more than one such increment at any given time and in any given order. Although Declarant shall have the ability to annex additional property as provided in this Article 12, Declarant shall not be obligated to annex any property, and any such shall not become subject to this Declaration unless and until a Supplemental Declaration shall have been recorded as herein provided, or at such later time as may be provided in the Supplemental Declaration.

**12.3.2 Supplemental Declarations.** A Supplemental Declaration shall be a writing in recordable form which annexes additional real property to the plan of this Declaration, and which incorporates by reference all of the provisions of this Declaration and may contain such other provisions as are set forth in this Declaration relating to Supplemental Declarations or such other provisions at the discretion of Declarant. Supplemental Declarations may contain such additions and modifications of the provisions of this Declaration as may be necessary to reflect the different character, if any, of the property being annexed and such other provisions as determined by the Declarant.

**12.3.3 Annexation Without Approval of Association or Owners.** Additional property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its Members or any Unit Owners or any other Persons, except Declarant, provided that a Supplemental Declaration covering said property shall be recorded by Declarant. The recordation of said Supplemental Declaration shall constitute and effectuate the annexation of the property described therein, unless provided otherwise or unless a later effective date is specified in the Supplemental Declaration, making said real property subject to this Declaration and subject to the functions, powers and

jurisdiction of the Association, and thereafter said real property shall be part of the Plat subject to this Declaration and all of the Owners of Units in the annexed property shall automatically be Owners hereunder except and as otherwise provided in such Supplemental Declaration as determined in the discretion of the Declarant.

#### **12.3.4 Plan of Development.**

(a) Declarant hereby explicitly reserves the right to expand the Condominium, without the consent of any Owner or any other Person. Neither Declarant nor any other Person has any obligation to annex any real property, or to develop any such real property in accordance with any plan or otherwise.

(b) In the event the Condominium is expanded, each Owner in any such new Phase shall become a Member of the Association and shall be entitled to exercise voting rights and shall be responsible for all expenses (Common and Special) determined in the same manner as the voting rights and liability for expenses or determined for the Owners in the original Property as provided in Article 2 and as provided otherwise herein. Upon the annexation of any property, the relative voting strength of Declarant and the Owners will change and control of the Association, even if currently vested in Owners other than Declarant at the time of the annexation of the property, may revert to the Declarant by virtue of the annexation, except as may be provided otherwise in such Supplemental Declaration as determined by the Declarant. Upon the annexation of any property, such property shall in all respects be subject to, and the ownership and use thereof shall be governed in accordance with, all of the covenants, conditions and restrictions set forth in this Declaration except as may be provided otherwise in such Supplemental Declaration as determined by the Declarant.

### **ARTICLE 13**

#### **DECLARANT'S DISCLAIMER OF REPRESENTATIONS; NO COVENANTS OR RESTRICTIONS; ZONING AND DEVELOPMENT PLAN**

**13.1 Declarant's Disclaimer of Representations.** Notwithstanding anything to the contrary in this Declaration, Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of the Plat can or will be carried out, or that any land now owned or hereinafter acquired by Declarant is or will be subject to this Declaration, or that any such land (whether or not it has been subjected to this Declaration) is and will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

**13.2 No Express or Implied Covenants or Restrictions.** Except for the property described in Exhibit A, nothing in this Declaration shall create, or be deemed to create, any express or implied covenants or restrictions with respect to any real property which is not a part of this Condominium.

**13.3 Zoning and Development Plan.** Each Owner, by accepting title to a Unit and becoming an Owner, acknowledges that the development of the Property is likely to extend over many years, and agrees, so long as the Owner is the Owner of the Unit, not to protest or otherwise

object to (a) zoning or changes in zoning or to uses of, or changes in density of, the Property; (b) subdivision, development or improvement of the Property, including future Phases, or (c) changes in any conceptual or development plan; provided that, in all cases, said zoning, subdivision, improvement, density, or conceptual, development plan revision is or would be lawful (including without limitation lawful by special use permit, variance or the like). The provisions of this Article 13 shall be enforceable to the extent allowed by law.

**ARTICLE 14  
INTENTIONALLY OMITTED**

**ARTICLE 15  
GENERAL PROVISIONS**

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

**15.1.1** imposing reasonable monetary penalties after notice and an opportunity to be heard is given to the Unit Owner or other violator. A Unit Owner shall be responsible for payment of any fine levied or imposed against a Lessee or Occupant or the Unit Owner's Unit or by any Invitee or the Unit Owner or Occupant

**15.1.2** suspending a Unit Owner's right to vote;

**15.1.3** suspending any Person's right to use any facilities within the Common Elements; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

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

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

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

**15.1.7** without liability to any Person, prohibiting any contractor, subcontractor, agent, employee or other Invitee of a Unit Owner who fails to comply with the terms and provisions of the Condominium Documents from continuing or performing any further activities on the Condominium;

**15.1.8** towing vehicles which are parked in violation of this Declaration or the Rules;

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

**15.1.10** recording a written notice of a violation by any Unit Owner or any restriction or provision of the Condominium Documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information; (i) the name of the Unit Owner; (ii) the legal description of the Unit against which the notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Unit Owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the Unit Owner and to any subsequent purchaser of the Unit that there is a violation of the provisions of the Condominium Documents.

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

**15.3 Private Right of Enforcement.** Any Unit Owner may enforce the Condominium Documents in any manner provided for in this Declaration or at law or in equity, except that a Unit Owner may not exercise any remedy provided to the Association by this Declaration or enforce payment of any Assessments or other amounts payable to the Association pursuant to the Condominium Documents.

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



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

**15.6 Severability.** Invalidation of any one of the terms, covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions herein, which shall remain in full force and effect. However, if any term, covenant, condition or restriction is deemed unenforceable, then such term, covenant, condition or restriction shall be enforced to the maximum extent permitted by law and may be modified by the trier of law to enable it to be enforced to the fullest extent permitted at law and any unenforceable provision shall be deemed severed from this Declaration and this Declaration shall be construed as if such invalid or unenforceable provision were deleted from this Declaration.

**15.7 Duration.** The covenants and restrictions of this Declaration, as amended from time to time, shall run with the land and bind the Condominium in perpetuity unless the Condominium is terminated as provided in this Declaration or in the manner provided for in the Condominium Act.

**15.8 Amendment.**

**15.8.1** Except in cases of amendments that may be executed by a Declarant in the exercise of its Development Rights or under A.R.S. § 33-1220, by the Association under A.R.S. §§ 33-1206 or 33-1216(D), or by certain Unit Owners under A.R.S. §§ 33-1218(B), 33-1222, 33-1223 or 33-1228(B), this Declaration may be amended only by an instrument in writing setting forth such modification or amendment and which has been approved by a vote of the Unit Owners to which at least seventy-five percent (75%) of the votes in the Association are allocated. Any amendment to this Declaration made at any time shall become effective immediately upon the recording thereof notwithstanding any other provision hereof and notwithstanding the effect of the Arizona Court of Appeals Case *Scholten v. Blackhawk Partners*, 184 Ariz. 326 (App. 1995).

**15.8.2** Except to the extent expressly permitted or required by the Condominium Act or this Declaration, an amendment to the Declaration shall not create or increase Special Declarant Rights, increase the number of Units or change the boundaries of any Unit, the allocated Interest of a Unit, or the use as to which any Unit is restricted, in the absence of unanimous consent of the Unit Owners. After the expiration of the Declarant Control Period, no amendment to any provision of Section 15.15 shall be effective in the absence of the unanimous consent of the Unit Owners. In addition, no amendment to any provision of Section 15.15 shall be effective unless the amendment is approved in writing by the Declarant even if the Declarant no longer owns any Unit at the time of the amendment.

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

**15.8.4** During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to (a) comply with the Condominium Act or any

other applicable law if the amendment does not adversely affect the rights of any Unit Owner, (b) correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner, (c) comply with the rules or guidelines in effect from time to time of any governmental or quasi-governmental entity or federal corporation guaranteeing or insuring mortgage loans or governing transactions involving mortgage instruments, including without limitation, the Veterans Administration, the Federal Housing Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or (d) comply with the rules or requirements of any federal, state or local governmental entity or agency whose approval of the Condominium, the Plat or the Condominium Documents is required by law or requested by Declarant.

**15.8.5** Any amendment adopted by the Unit Owners pursuant to Subsection 15.8.1 shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of Mohave County. Any such amendment shall certify that the amendment has been approved as required by this Section 15.8. Any amendment made by the Declarant pursuant to this Declaration or the Condominium Act shall be executed by the Declarant and shall be recorded with the County Recorder of Mohave County.

**15.8.6** Notwithstanding anything herein to the contrary, but subject to the rights of the Declarant herein, this Declaration may be modified or amended by an instrument in writing setting forth such modification or amendment, signed by Owners of Units to which not less than seventy-five percent (75%) of the interest in the Common Elements is appurtenant and such written amendment shall be acknowledged.

**15.9 Binding Effect.** By acceptance of a deed or by acquiring any interest in any portion of the Condominium, including a Unit, each Person, for himself, his heirs, and any Lessee, Occupant, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by the Condominium Documents and any amendments thereof. In addition, each such Person by so doing thereby acknowledges that the Condominium Documents set forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained in the Condominium Documents shall run with the land and be binding on all subsequent and future Unit Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such Person fully understands and acknowledges that the Condominium Documents shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future Unit Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Units and the membership in the Association and the other rights created by the Condominium Documents shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the Unit.

**15.10 Gender.** The singular, wherever used in this Declaration, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the

provisions of this Declaration apply either to corporations or individuals, or men or women, shall in all cases be assumed as though in each case fully expressed.

**15.11 Section Headings.** The headings of the Articles, Sections, Subsections and paragraphs contained in this Declaration are for convenience of reference only and shall not define, limit or otherwise construe the contents of this Declaration.

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

**15.13 Construction; Exhibits.** In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and the Articles, Bylaws or the Rules, the provisions of this Declaration shall prevail. All exhibits attached hereto or referred to herein are incorporated herein and made a part hereof.

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

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

**15.16 Attorneys' Fees.** In the event the Declarant, the Association or any Unit Owner employs an attorney or attorneys to enforce a lien or to collect any amounts due from a Unit Owner or to enforce compliance with or recover damages for any violation or noncompliance with the Condominium Documents or the Condominium Act, the prevailing party in any such action shall be entitled to recover from the other party reasonable costs and attorneys' fees incurred in the action.

**15.17 Number of Days.** In computing the number of days for purposes of any provision of the Condominium Documents, all days shall be counted including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

**15.18 Notice of Violation.** The Association shall have the right to record a written Notice of a Violation by any Unit Owner of any restriction or provision of the Condominium Documents (herein the "Notice" or a "Notice of Violation"). The Notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (i) the

name of the Unit Owner; (ii) the legal description of the Unit against which the Notice is being recorded; (iii) a brief description of the nature of the violation; (iv) a statement that the Notice is being recorded by the Association pursuant to this Declaration; and (v) a statement of the specific steps which must be taken by the Unit Owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the Unit Owner and to any subsequent purchaser of the Unit that there is a violation of the provisions of the Condominium Documents. If, after the recordation of such Notice, it is determined by the Association that the violation referred to in the Notice does not exist or that the actual violation referred to in the Notice has been cured, the Association shall record a notice of compliance which shall state the legal description of the Unit against which the Notice of Violation was recorded, the recording data of the Notice of Violation, and shall state that the violation referred to in the Notice of Violation has been cured, or if such be the case, that it did not exist ("Notice of Compliance"). Any Notice of Violation or Notice of Compliance which is recorded against any Unit must be delivered to the Owner of such Unit in the manner required by Section 15.25.

### **15.19 Construction Defect Dispute Notification and Resolution Procedure.**

**15.19.1** To the fullest extent permitted by law, all actions or claims (i) by the Association against any one or more of the Declarant Parties, (ii) by any Unit Owner(s) against any one or more of the Declarant Parties, or (iii) by both the Association and any Unit Owner(s) against any one or more of the Declarant Parties, relating to or arising out of the Condominium, including but not limited to, the Declaration or any other Condominium Documents, the use or condition of the Condominium including the Units or any other claim of any kind by any Person against the Declarant or the design or construction of or any condition on or affecting the Condominium, including, but not limited to, construction defects, surveys, soil conditions, grading, specifications, installation of Improvements (including, but not limited to, Units) or disputes which allege negligence or other tortious conduct, breach of contract or breach of implied or express warranties as to the condition of the Condominium or any Improvements (collectively, "Disputes(s)") shall be subject to the provisions of this Section 15.19. Declarant and each Unit Owner acknowledge that the provisions set forth in this Section 15.19 shall be binding upon current and future Unit Owners of the Condominium and upon the Association, whether acting for itself or on behalf of any Unit Owner(s).

**15.19.2** The Association, the Declarant, all Unit Owners, Lessees, Occupants and other Persons bound by this Declaration, and any Person not otherwise bound by this Declaration who agrees to submit to the dispute resolution procedures as set forth in this Section 15.19 (herein all such parties sometimes collectively referred to as the "parties") agree that the dispute resolution procedures set forth in this Section 15.19 shall apply to all Disputes and any other claims of any kind (herein referred to as "Disputes" or "Claims") held by the Association, the Declarant, Unit Owners, Lessees, Occupants and any other Persons against any other Person.

**15.19.3** Any Person (including the Association) with a Dispute claim shall notify the Declarant in writing of the claim, which writing shall describe the nature of the claim and any proposed remedy (the "Claim Notice"). Likewise, any party who contends or alleges to have a Claim against any other party shall notify such party in writing of the Claim (herein also referred to as the "Claim Notice" setting forth the nature of the Claim, the factual and legal basis of the

Claim and any other information necessary to fully and adequately appraise such party of the nature of the Claim asserted against such other party including a description of the actions which the claimant alleges to be necessary in order to resolve such party's claim.

**15.19.4** Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, Declarant and the claimant shall meet at a mutually acceptable place within the Condominium to discuss the Claim. At such meeting or at such other mutually agreeable time, the Declarant and the Declarant's representatives shall have full access to the property that is the subject of the claim and shall have the right to conduct inspections, testing and/or destructive or invasive testing the same in a manner deemed appropriate by Declarant (provided Declarant shall repair or replace any property damaged or destroyed during such inspection or testing), which rights shall continue until such time as the Dispute is resolved as provided in this Subsection 15.19. If the Declarant elects to take any corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Condominium and the property which is the subject of the Claim to take and complete corrective action. The parties shall negotiate in good faith in an attempt to resolve the Claim.

**15.19.5** Nothing set forth in Subsection 15.19 shall be construed to impose any obligation on Declarant to inspect, test, repair or replace any item of the Condominium for which Declarant is not otherwise obligated under applicable law or any limited warranty provided by Declarant in connection with the sale of the Condominium and/or the Improvements constructed thereon. The right of Declarant to enter, inspect, test, repair and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form executed and recorded by Declarant in the Official Records of Mohave County, Arizona.

**15.19.6** The parties shall attempt to settle the Claim through negotiation. Should the parties not be successful in resolving any Dispute or Claim, within thirty (30) days after the date of the Claims Notice or such longer period as may be mutually agreed upon in writing by the parties, such Claim or Dispute shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association as modified or as otherwise provided in this Section 15.19. The parties shall cooperate in good faith to attempt to cause all necessary and appropriate parties to be included in the arbitration proceeding. Subject to the limitations imposed in this Section 15.19, the arbitrator shall have the authority to try all issues, whether of fact or law. If the Claim is not resolved by mutual agreement of the parties, and if such Claim and the parties are therefore subject to mandatory arbitration in accordance with this Section 15.19, the arbitration shall be conducted in accordance with the following rules:

(a) The proceedings shall be heard in Mohave County.

(b) A single arbitrator shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the Association with experience in relevant real estate matters or construction. The arbitrator shall not have any relationship to the parties or interest in the Condominium. The parties to the Dispute shall meet to select the arbitrator within ten (10) days after the Claim or Dispute becomes subject to mandatory arbitration as provided in this Section 15.19.

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

(d) The arbitrator may require one or more pre-hearing conferences.

(e) The parties shall be entitled only to limited discovery, consisting of the exchange between the parties of only the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Dispute, including but not limited to, destructive or invasive testing; and (vi) trial briefs. The parties shall also be entitled to conduct further tests and inspections as provided in this Section 15.19. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

(f) The arbitrator shall not have the power to award punitive or consequential damages. As further provided below, the right to punitive and consequential damages is waived by the parties. The arbitrator shall have the power to grant all other legal and equitable remedies and award compensatory damages in the proceeding.

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

(h) The arbitrator's award may be enforced as provided for in the Uniform Arbitration Act, A.R.S. § 12-1501, et seq., or such similar law governing enforcement of awards in the Arizona Courts.

**15.19.7 NOTICE: BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE CONDOMINIUM, EACH PERSON, FOR HIMSELF, HIS HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS, TRANSFEREES AND ASSIGNS, AGREES TO HAVE ANY DISPUTE RESOLVED ACCORDING TO THE PROVISIONS OF SECTION 15.15 AND WAIVES THE RIGHT TO PURSUE ANY DISPUTE IN ANY MANNER OTHER THAN AS PROVIDED IN SECTION 15.15. THE ASSOCIATION, EACH UNIT OWNER, LESSEE, OCCUPANT AND DECLARANT ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN SECTION 15.15, THEY ARE GIVING UP THEIR RESPECTIVE RIGHTS TO HAVE SUCH DISPUTES TRIED BEFORE A JURY. THE ASSOCIATION, EACH UNIT OWNER, LESSEE, OCCUPANT AND DECLARANT FURTHER WAIVE THEIR RESPECTIVE RIGHTS TO AN AWARD OF PUNITIVE AND CONSEQUENTIAL DAMAGES RELATING TO A DISPUTE. BY ACCEPTANCE OF A DEED OR BY ACQUIRING ANY OWNERSHIP INTEREST IN ANY PORTION OF THE CONDOMINIUM, EACH UNIT OWNER, LESSEE, OCCUPANT HAVE VOLUNTARILY ACKNOWLEDGED THAT THEY ARE GIVING UP ANY RIGHTS THEY MAY POSSESS TO PUNITIVE AND**

CONSEQUENTIAL DAMAGES OR THE RIGHT TO A TRIAL BEFORE A JURY RELATING TO A DISPUTE.

**15.19.8** Nothing in this Section 15.19 shall be considered to toll, stay, reduce or extend any applicable statute of limitations.

**15.19.9** Neither this Section 15.19 nor Section 15.20 below may be amended at any time except in accordance with this Declaration and with the express written consent of the Declarant.

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

**15.20.1 Notice of Unit Owners.**

(a) Prior to obtaining the consent of the Unit Owners in accordance with Section 15.16, the Association must provide written notice to all Unit Owners which notice shall (at a minimum) include (1) a description of the nature of any action or claim (the "Claim"), (2) a description of the attempts of Declarant to correct such Claim and the opportunities provided to Declarant to correct such Claim, (3) a certification from an engineer licensed in the State of Arizona that such Claim is valid along with a description of the scope of work necessary to cure such Claim and a resume of such engineer, (4) the estimated cost to repair such Claim, (5) the name and professional background of the attorney proposed to be retained by the Association to pursue the Claim against Declarant and a description of the relationship between such attorney and member(s) of the Board of Directors (if any), (6) a description of the fee arrangement between such attorney and the Association, (7) the estimated attorney's and expert fees and costs necessary to pursue the Claim against Declarant and the source of the funds which will be used to pay such fees and expenses, (8) the estimated time necessary to conclude the action against Declarant, (9) an affirmative statement from the Board of Directors that the action is in the best interest of the Association and its Members, and (10) all information required pursuant to A.R.S. § 33-1901 *et seq.*, as it may be amended from time to time, applicable to the Claim.

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

**15.20.2 Notification to Prospective Purchasers.** In the event that the Association commences any action or claim, all Unit Owners must notify prospective purchasers with a copy of the notice received from the Association.

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

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

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

**15.24 Remedies Cumulative.** Each right and remedy provided herein is cumulative and not exclusive.

**15.25 Notices.** All notices, demands, statements or other communications required to be given to or served on a Unit Owner or any Lessee or Occupant and the Declarant under this Declaration shall be in writing and shall be deemed to have been duly given and served if delivered personally or sent by United States mail, certified or registered, postage paid, return receipt requested, addressed, if to the Unit Owner, Lessee or Occupant at the address which the Unit Owner, Lessee or Occupant shall designate in writing and file with the Association or, if no such address is designated, at the address of the Unit of such Unit Owner, Lessee or Occupant or if to the Declarant, at the address which the Declarant shall designate in writing and file with the Association or, if no such address is designated, at the office of Declarant's statutory agent. A Unit Owner, Lessee or Occupant and the Declarant may change their address on file with the Association for receipt of notice by delivering a written notice of change of address to the Association pursuant to this Section 15.25. A notice given by United States mail, whether certified or registered, shall be deemed to have been received by the person to whom the notice was addressed on the earlier of the date the notice is actually received or three (3) days after the notice is mailed. If a Unit is owned by more than one person, notice to one of the Unit Owners shall constitute notice to all Unit Owners of the same Unit. Each Unit Owner shall file his correct mailing address with the Association and shall promptly notify the Association in writing of any subsequent change of address.

**15.26 Declarant's Right to Use Similar Name and Restriction on Association's Right to Use Trade Name.**



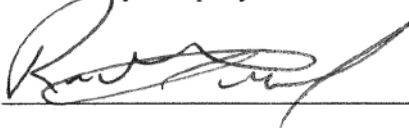
**15.26.1** The Declarant has agreed to allow the Association the limited right to use the name "Paradyme Havasu Storage" and has agreed to allow the Unit Owners the limited right to use the name "Paradyme Havasu Storage" herein collectively the name of the Association and the name of the Condominium.

**15.26.2** The Association and the Unit Owners hereby irrevocably consent to the use by any other corporation, limited liability company or other entity which may be formed, created or incorporated by Declarant of a corporate name, limited liability name, name of a partnership, association or the name of any other entity (herein collectively all such entities referred to as "entity") which is the same, similar or deceptively similar to the name of the Association, the Condominium, Development, or otherwise similar in any way to the tradenames provided one or more words are added to the name of such other entity to make the name of the Association distinguishable from the name of such other entity. Within five (5) days after being requested to do so by the Declarant, the Association and the Unit Owners shall sign such letters, documents or other writings as may be required by the Arizona Corporation Commission, Secretary of State or any other government entity of any kind or any Person in order for any other entity to be formed, created or incorporated by the Declarant to use any name which is the same or deceptively similar to the name of the Association.

IN WITNESS WHEREOF, Paradyme Havasu Storage, LLC, an Delaware limited liability company, the Declarant, has executed this Declaration as of the date set forth on page one herein.

**DECLARANT:**

Paradyme Havasu Storage, LLC, a Delaware limited liability company.

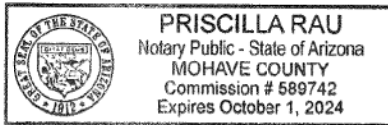
By:  \_\_\_\_\_

Ryan Garland, Manager

STATE OF Arizona )  
 ) ss.  
COUNTY OF Mohave )

On September 11, 2024 before me, Priscilla Rau, personally appeared Ryan Garland, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature(s) on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



*Priscilla Rau*  
SIGNATURE OF NOTARY PUBLIC

\_\_\_\_\_  
(SEAL)

## Exhibit A

A CONDOMINIUM SUBDIVISION OF AIRSPACE OF PARCEL "C" OF PARCEL PLAT / RETAIL CENTRE-2, LAKE HAVASU CITY, RECORDED AT RECEPTION No. 2008064200, LYING IN SECTION 9, T.14N., R.20W., G.&S.R.M., MOHAVE COUNTY, ARIZONA.

AND

A CONDOMINIUM SUBDIVISION OF AIRSPACE OF A PORTION OF PARCEL "B" AS SHOWN ON CONDOMINIUM PLAT OF PARADYME HAVASU STORAGE PHASE I, LAKE HAVASU CITY, RECORDED AT RECEPTION No. 2023027158, LYING IN SECTION 9, T.14N., R.20W., G.&S.R.M., MOHAVE COUNTY, ARIZONA.

AND

A CONDOMINIUM SUBDIVISION OF AIRSPACE OF A PORTION OF PARCEL "B" AS SHOWN ON CONDOMINIUM PLAT OF PARADYME HAVASU STORAGE, PHASE II, LAKE HAVASU CITY, RECORDED AT RECEPTION No. 2024022255, LYING IN SECTION 9, T.14 N., R.20 W., G.&S.R.M., MOHAVE COUNTY, ARIZONA

# Exhibit B

<b><u>Building A</u></b>		
<b>Unit</b>	<b>Sq. Ft.</b>	<b>Percentage of Total Sq. Ft.</b>
101	1335	1.32%
102	659	0.65%
103	659	0.65%
104	1343	1.33%
105	592	0.59%
106	592	0.59%
107	1343	1.33%
108	659	0.65%
109	659	0.65%
<b>Subtotal:</b>	<b>7,841</b>	

<b><u>Building B</u></b>		
<b>Unit</b>	<b>Sq. Ft.</b>	<b>Percentage of Total Sq. Ft.</b>
100	234	0.23%
101	284	0.28%
102	524	0.52%
103	1205	1.19%
104	1745	1.73%
105	2658	2.63%
106	1618	1.60%
107	794	0.79%
108	794	0.79%
109	1618	1.60%
110	794	0.79%
111	794	0.79%
112	1618	1.60%
113	794	0.79%
114	794	0.79%
115	1618	1.60%

116	794	0.79%
117	794	0.79%
118	1618	1.60%
119	794	0.79%
120	794	0.79%
121	1618	1.60%
122	794	0.79%
123	794	0.79%
124	1618	1.60%
125	794	0.79%
126	794	0.79%
127	794	0.79%
<b>Subtotal:</b>	<b>29,887</b>	

<b><u>Building C</u></b>		
<b>Unit</b>	<b>Sq. Ft.</b>	<b>Percentage of Total Sq. Ft.</b>
101	864	0.85%
102	668.25	0.66%
103	668.25	0.66%
104	668.25	0.66%
105	668.25	0.66%
106	668.25	0.66%
107	668.25	0.66%
108	668.25	0.66%
109	668.25	0.66%
110	668.25	0.66%
111	668.25	0.66%
112	668.25	0.66%
113	668.25	0.66%
114	668.25	0.66%
115	668.25	0.66%
116	668.25	0.66%
117	668.25	0.66%
118	668.25	0.66%
119	668.25	0.66%
120	668.25	0.66%

121	668.25	0.66%
122	668.25	0.66%
123	668.25	0.66%
124	668.25	0.66%
125	668.25	0.66%
126	661.5	0.65%
127	661.5	0.65%
128	661.5	0.65%
129	661.5	0.65%
130	661.5	0.65%
131	661.5	0.65%
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137	661.5	0.65%
138	661.5	0.65%
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141	661.5	0.65%
142	661.5	0.65%
143	661.5	0.65%
144	661.5	0.65%
145	661.5	0.65%
146	661.5	0.65%
147	661.5	0.65%
148	661.5	0.65%
149	661.5	0.65%
<b>Subtotal:</b>	<b>32,778</b>	

<b>Building D</b>		
<b>Unit</b>	<b>Sq. Ft.</b>	<b>Percentage of Total Sq. Ft.</b>
101	937.37	0.93%
102	661.50	0.65%
103	661.50	0.65%
104	931.50	0.92%
105	931.50	0.92%
106	600.75	0.59%
107	600.75	0.59%

108	664.88	0.66%
109	664.88	0.66%
110	677.19	0.67%
111	664.88	0.66%
112	652.56	0.65%
113	664.88	0.66%
114	664.88	0.66%
115	677.19	0.67%
116	652.56	0.65%
117	677.19	0.67%
118	652.56	0.65%
119	664.88	0.66%
120	664.88	0.66%
121	677.19	0.67%
122	652.56	0.65%
123	677.19	0.67%
124	664.88	0.66%
125	652.56	0.65%
126	600.75	0.59%
127	600.75	0.59%
128	671.63	0.66%
129	671.63	0.66%
130	684.06	0.68%
131	671.63	0.66%
132	659.19	0.65%
133	671.63	0.66%
134	671.63	0.66%
135	684.06	0.68%
136	659.19	0.65%
137	684.06	0.68%
138	659.19	0.65%
139	671.63	0.66%
140	671.63	0.66%
141	684.06	0.68%
142	659.19	0.65%
143	684.06	0.68%
144	671.63	0.66%
145	659.19	0.65%
<b>Subtotal:</b>	<b>30,583.45</b>	

<b>Total Square Footage:</b>	<b>101,089.45</b>
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### COURTESY RECORDING INSTRUCTIONS

Pioneer Title Agency, Inc. is hereby handed the following document(s):

2<sup>nd</sup> Amended CC&R's for Paradyme Havasu Storage LLC

You are hereby authorized and instructed as a courtesy to deliver for recording to the Mohave County Recorder's Office said document(s), with these instructions to be attached to and recorded as a part of the first mentioned document.

The undersigned understands and acknowledges that Pioneer Title Agency, Inc. is acting in the capacity of messenger only, without consideration, and is not responsible for the correctness of the form, content or execution of any of the document(s) and that Pioneer Title Agency, Inc. is hereby released of any and all liability in connection with the same. Further, the undersigned understands and acknowledges that Pioneer Title Agency, Inc. assumes no responsibility or liability due to any delay in recordation of said document(s).

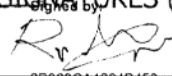
The undersigned states that the real property affected by the document(s) is not involved in an open escrow, title insurance or other transaction pending with any office of Pioneer Title Agency, Inc. or any other title company.

The undersigned understands and acknowledges that at the time of recordation, the documents will not be insured by Pioneer Title Agency, Inc. Pioneer Title Agency, Inc. is hereby instructed not to do any title search in conjunction with this courtesy recording.

It is further understood and acknowledged that there shall be no liability and/or responsibility for a payment of any consideration by Pioneer Title Agency, Inc. to any party as this service is performed as a courtesy only.

Dated: September 12, 2024

**SIGNATURES** (All parties to document(s) must sign):

  
\_\_\_\_\_

Ryan Garland - Party Making Delivery

Address: \_\_\_\_\_

Pioneer Title Agency, Inc. office forwarding document(s) to recording desk:

Office Name \_\_\_\_\_ By: \_\_\_\_\_