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CONDOMINIUM DECLARATION

FOR

RILLITO BUSINESS PARK CONDOMINIUM

This Condominium Declaration for Rillito Business Park Condominium is made this 18th day of September, 2001 by First American Title Insurance Company, as Trustee under Trust No. 4924, and not in its corporate capacity, hereinafter referred to as "Declarant"

ARTICLE 1

DEFINITIONS

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

1.2 Defined Terms. The following capitalized terms shall have the general meanings described in the Condominium Act and for purposes of this Declaration shall have the specific meanings set forth below:

(a) "Articles" means the Articles of Incorporation of the Association, as amended from time to time.

(b) "Assessments" means the Common Expense Assessments and Special Assessments levied and assessed against each Unit pursuant to Article 7 of this Declaration.

(c) "Assessment Lien" means the lien granted to the Association by the Condominium Act to secure the payment of Assessments, monetary penalties and other charges owed to the Association.

(d) "Association" means Rillito Business Park Condominium Association, Inc. an Arizona nonprofit corporation, its successors and assigns.

(e) "Board of Directors" means the Board of Directors of the Association.

(f) "Building" means the structures designated as buildings on the Plat.

(g) "Bylaws" means the Bylaws of the Association, as amended from time to time.

(h) "Common Elements" means all portions of the Condominium other than the Units.

(i) "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves. Common Expenses shall expressly include water provided to each of the Buildings and consumed by the occupants of the Units thereof.

(j) "Common Expense Assessment" means the assessment levied against the Units pursuant to Section 7.2 of this Declaration.

(k) "Common Expense Liability" means the liability for common expenses allocated to each Unit by this Declaration.

(l) "Condominium" means the real property located in Pima County, Arizona, which is described in Exhibit A attached to this Declaration and made a part hereof, together with all buildings and other Improvements located thereon.

(m) "Condominium Act" means the Arizona Condominium Act, A.R.S. Section 33-1201, et seq., as amended from time to time.

(n) "Condominium Documents" means this Declaration and the Articles, Bylaws, and the Rules.

(o) "Declarant" means First American Title Insurance Company, as Trustee under Trust No.4924 and its successors and assigns, and any person or entity to whom it may transfer any Special Declarant Right.

(p) "Declaration" means this Condominium Declaration, as amended from time to time.

(q) "Development Rights" means any right or combination of rights reserved by or granted to the Declarant in this Declaration to do any of the following:

- (1) Add real estate to the Condominium;
- (2) Create easements, Units, Common Elements or Limited Common Elements within the Condominium;
- (3) Subdivide Units, convert Units into Common Elements or convert Common Elements into Units;
- (4) Withdraw real estate from the Condominium;
- (5) Make the Condominium part of a larger condominium or planned community; and

(6) Amend the Declaration during the Period of Declarant Control to comply with the Condominium Act or any other applicable law or to correct any error or inconsistency in the Declaration or in any amendment which does not adversely affect the rights of any Unit Owner.

(r) "Eligible Insurer Or Guarantor" means an insurer or governmental guarantor of a First Mortgage who has requested notice of certain matters in accordance with Section 9.1 of this Declaration.

(s) "Eligible Mortgage Holder" means a First Mortgagee who has requested notice of certain matters from the Association in accordance with Section 9.1 of this Declaration.

(t) "First Mortgage" means any mortgage or deed of trust on a Unit with first priority over any other mortgage or deed of trust on the same Unit.

(u) "First Mortgagee" means the holder of any First Mortgage.

(v) "Improvement" means any physical structure, fixture or facility existing or constructed, placed, erected or installed on the land included in the Condominium, including, but not limited to, buildings, private drives, paving, fences, walls, hedges, plants, trees and shrubs of every type and kind.

(w) "Limited Common Elements" means a portion of the Common Elements specifically designated in this Declaration as a Limited Common Element and allocated by this Declaration or by operation of the Condominium Act for the exclusive use of one or more but fewer than all of the Units.

(x) "Member" means any Person who is or becomes a member of the Association.

(y) "Period of Declarant Control" means the time period commencing on the date this Declaration is recorded with the County Recorder of Pima County, Arizona, and ending on the earlier of: (i) Ninety (90) days after the conveyance of seventy-five percent (75%) of the Units which may be conveyed to Unit Owners other than the Declarant, or (ii) Four (4) years after all Declarants have ceased to offer Units for sale in the ordinary course of business.

(z) "Person" means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

(aa) "Plat" means the condominium plat for Rillito Business Park Condominium, which plat has been recorded in Book 55 of Maps, Page 30, records of Pima County, Arizona, and any amendments, supplements or corrections thereto.

(bb) "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 as a model in connection with the sale of other Units, or a Person who, in addition to purchasing a Unit, is assigned any Special Declarant Right.

(cc) "Rules" means the rules and regulations adopted by the Association, as amended from time to time.

(dd) "Special Declarant Rights" means any right or combination of rights reserved by or granted to the Declarant in this Declaration or by the Condominium Act to do any of the following:

(1) Construct Improvements provided for in this Declaration or shown on the Plat;

(2) Exercise any Development Right;

(3) Maintain sales offices, management offices, models, and signs advertising the Condominium;

(4) Use easements through the Common Elements for the purpose of making Improvements within the Condominium or within the Additional Property; and

(5) Appoint or remove any officer of the Association or any member of the Board of Directors during the Period of Declarant Control.

(ee) "Unit" means a portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Section 2.5 of this Declaration.

(ff) "Unit Owner" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Unit. Unit Owner shall not include Persons having an interest in a Unit merely as security for the performance of an obligation, or a lessee or tenant of a Unit. Unit Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract subject to A.R.S. § 33-741, et seq. Unit Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the

rights and obligations of the parties to executory contracts pending the closing of a sale or purchase transaction. In the case of Units the fee simple title to which is vested in a trustee pursuant to A.R.S. § 33-801, et seq., the trustor shall be deemed to be the Unit Owner. In the case of Units the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the Unit shall be deemed to be the Unit Owner.

## ARTICLE 2

### SUBMISSION OF PROPERTY; UNIT BOUNDARIES; ALLOCATION OF PERCENTAGE INTERESTS, VOTES AND COMMON EXPENSE LIABILITIES

2.1 Submission of Property. Declarant hereby submits the real property described on Exhibit A attached to this Declaration, together with all 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 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.

2.2 Name of Condominium. The name of the Condominium created by this Declaration is Rillito Business Park Condominium.

2.3 Name of Association. The name of the Association is Rillito Business Park Condominium Association.

2.4 Identifying Numbers of Units. The identifying numbers of the Units are 1 through 36, inclusive.

2.5 Unit Boundaries.

(a) The boundaries of each Unit are the interior unfinished surfaces of the exterior perimeter walls, middle of interior demising walls, floor, ceiling/attic below twelve (12) feet above finished floor, doors and windows of the Unit. Except as provided in the foregoing sentence, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces of the walls, floor and ceiling are part of the Unit, and all other portions of the walls, floor and ceiling/attic are part of the Common Elements.

(b) Any air conditioning or heating units, chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture, whether located within or outside of the boundaries of a



(2) Each Unit is allocated the covered parking spaces constructed therefor as determined or declared by the Declarant in its sole and absolute discretion;

(3) [Intentionally Deleted];

(4) Any chute, vertical extensions of ceilings, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixtures, whether located within or outside of the boundaries of a Unit, which serve only one Unit is a Limited Common Element allocated solely to the Unit served;

(5) If a chute, flue, pipe, duct, wire, conduit, bearing wall, bearing column or other fixtures lies partially within and partially outside the designated boundaries of a Unit, the portion serving only the Unit is a Limited Common Element allocated solely to the Unit, the use of which is limited to that Unit and any portion serving more than one Unit or a portion of the Common Elements is a part of the Common Elements;

(6) Any shutters, awnings, window boxes, doorsteps, stoops, porches and exterior doors and windows or other fixtures designed to serve a single Unit, located outside the boundaries of the Unit, are Limited Common Elements allocated exclusively to the Unit and their use is limited to that Unit;

(b) A Limited Common Element may be reallocated by an amendment to this Declaration made in accordance with the provisions of Section 33-1218(B) of the Condominium Act.

(c) The Board of Directors shall have the right, without a vote of the Members, to allocate as a Limited Common Element any portion of the Common Elements not previously allocated as a Limited Common Element. Any such allocation by the Board of Directors shall be made by an amendment to this Declaration and an amendment to the Plat if required by the Condominium Act.

### ARTICLE 3

#### EASEMENTS

3.1 Utility Easement. There is hereby created an easement upon, across, over and under the Common Elements for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Elements, but no sewers, electrical lines, water lines, or other utility or service lines may be installed or located on the Common Elements except as initially





the Common Elements pursuant to Subsection 3.1 or 3.2 of this Declaration. The Board of Directors shall have the right to limit the number of guests and invitees who may use the Common Elements at any one time and may restrict the use of the Common Elements by guests and invitees to certain specified times.

(d) A Unit Owner's right and 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.

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

#### 3.4 Declarant's Use for Sales And Leasing Purposes.

(a) Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Condominium and to maintain one or more advertising signs on the Common Elements while the Declarant is selling Units in the Condominium. Declarant reserves the right to place models, management offices and sales and leasing offices in any Units owned by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate.

(b) Declarant may from time to time relocate models, management offices and sales and leasing offices to different locations within the Condominium. Upon the relocation of a model, management office or sales and leasing office constituting a Common Element, Declarant may remove all personal property and fixtures therefrom.

(c) So long as Declarant is marketing Units in the Condominium, Declarant shall have the right to restrict the use of the parking spaces which are not allocated as Limited Common Elements. 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.

(d) 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.

3.5 Declarant's Rights and Easements.

(a) Declarant shall have the right and an easement on and over the Common Elements to construct the Common Elements 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.

(b) Declarant shall have the right and an easement on, over and under those portions of the Common Elements not located within the Buildings for the purpose of maintaining and correcting drainage of surface, roof or storm water. 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.

(c) The Declarant shall have an easement through the Units for any access necessary to complete any renovations, warranty work or modifications to be performed by Declarant.

(d) The Declarant shall have the right and an easement on, over, and through the Common Elements as may be reasonably necessary for the purpose of discharging its obligations and exercising Special Declarant Rights whether arising under the Condominium Act or reserved in this Declaration.

3.6 Easement for Support. To the extent necessary, each Unit shall have an easement for structural support over every other Unit in the Building, the Common Elements and the Limited Common Elements, and each Unit and the Common Elements shall be subject to an easement for structural support in favor of every other Unit in the Building, the Common Elements and the Limited Common Elements.

3.7 Common Elements Easement in Favor of the Association. The Common Elements shall be subject to an easement in favor of the Association and the agents, employees and independent contractors of the Association for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements and for the purpose of exercising all rights of the Association and discharging all obligations of the Association.

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:

(a) For the installation, repair, maintenance, use, removal or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and

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(c) For correction of emergency conditions in one or more units or Limited Common Elements or casualties to the Common Elements, the Limited Common Elements or the Units.

(d) For the purpose of enabling the Association, the Board of Directors or any other committees appointed by the Board of Directors to exercise and discharge their respective rights, powers and duties under the Condominium Documents.

(e) For inspection, at reasonable times and upon reasonable notice to the Unit Owner, of the Units and the Limited Common Elements in order to verify that the provisions of the Condominium Documents are being complied with by the Unit Owners, their guests, tenants, invitees and the other occupants of the Unit.

3.10 ~~Easement~~ for Unintended Encroachments. To the extent that any Unit or Common Element encroaches on any other Unit or Common Element as a result of original construction, shifting or settling, or alteration or restoration authorized by this Declaration or any reason other than 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. Office Use. Subject to the limitations, restrictions and conditions below, all Units shall be used, improved and devoted exclusively to business, administrative or professional office use only, and such additional uses permitted by the City of Tucson, Arizona under its C-2 Zoning designation, and no other use. No residential, retail or accessory retail uses may be conducted on any Unit or in or from any Unit. In addition to the foregoing, no medical use may be conducted on any Unit or in or from any Unit without the prior written approval of the Board of Directors, which approval may be withheld in its sole and absolute discretion. No medical use may be approved by the Board of Directors if such approval or use would violate the then parking rules or regulations of the City of Tucson, Arizona when taking into account or consideration all uses then in effect at, on or from the Condominium. In the event the Board of Directors approves of the medical use for a Unit, such approval shall remain in full force and effect and continue notwithstanding any transfer, grant, conveyance, lease, foreclosure, trustee's sale or other disposition of all or any interest in or to the Unit. However, in the event the Board of Directors approves of the medical use for a Unit, in the event of any termination of the medical use thereof for a period of ninety (90) days (unless due to material damage or destruction of or to the Unit), said Unit may no longer have a medical use conducted thereon, in or

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therefrom unless approved by the Board of Directors as provided above. Notwithstanding the foregoing, the following uses, as more fully described or defined in the City of Tucson Land Use Code, are strictly prohibited on, from or within the Condominium: Automotive-Service and Repair; Billboards; Building and Grounds Maintenance; Funeral Service; Construction Materials Sales; Swap Meets and Auctions; Protective Services; Salvaging; Restricted Adult Activities Use Groups; Correctional Use; Custodial Facility; Alcoholic Beverage Service - Large Bar; Entertainment - Dance Hall; Heavy Equipment Manufacturing; and Hazardous Material Storage.

4.2 Antennas. No antenna, satellite television dish or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the Condominium whether attached to a Building or structure or otherwise, unless approved by the Board of Directors.

4.3 Utility Service. Except for lines, wires and devices existing on the Condominium as of the date of this Declaration and maintenance and replacement of the same, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon the Condominium unless they are installed and maintained underground or concealed in under or on Buildings or other structures permitted under this Declaration. No provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Buildings or structures permitted under this Declaration.

4.4 Improvements and Alterations. Any Unit Owner may make nonstructural additions, alterations and improvements within his Unit without the prior written approval of the Board of Directors, but such Unit Owner shall, to the extent permitted under Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such alterations, additions or improvements. No Unit Owner shall make any structural additions, alterations or improvements within a Unit, unless prior to the commencement of each addition, alteration or improvement, the Unit Owner receives the prior written approval of the Board of Directors and an architect or engineer, licensed in Arizona, certifies that such addition, alteration or improvement will not impair the structural integrity of the Building within which such addition, alteration or improvement is to be made. The Unit Owner shall, to the extent permitted by Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such additions, alterations or improvements. Notwithstanding the foregoing, no addition, alteration or improvement within a Unit or within any Limited Common Element allocated to the exclusive use of a Unit, whether structural or not, which would be visible

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from the exterior of the Building in which the Unit is located or from the exterior of the Limited Common Element, shall be made without the prior written approval of the Board of Directors, which approval shall only be granted if the Board of Directors affirmatively finds that the proposed addition, alteration or improvement is aesthetically pleasing and in harmony with the surrounding Improvements. No Unit Owner shall make any addition, alteration or improvement to the Common Elements without the prior written approval of the Board of Directors.

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

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

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

4.8 Occupancy. No Unit, trailer, basement of any incomplete building, tent, shack, garage, barn or other structure, and no temporary Improvement of any kind shall be used at any time for a residence either temporarily or permanently. Temporary buildings or structures used during the construction of buildings or structures approved by the Board of Directors shall be permitted but must be removed promptly upon completion of the construction of the building or structure.

4.9 Limitation on Leasing of Units. No Unit may be leased for a period of less than thirty (30) days. All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Condominium Documents, and any failure by the lessee to comply with the terms of the Condominium Documents shall be a default under the lease. Upon leasing his Unit, a Unit Owner shall promptly notify the Association of the commencement date and termination date of the

lease and the names of each lessee or other person who will be occupying the Unit during the term of the lease.

4.10 Mineral Exploration. No portion of the Condominium shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, or any earth substance of any kind.

4.11 Diseases and Insects. No Unit Owner shall permit any thing or condition to exist upon the Condominium which could induce, breed or harbor infectious diseases or noxious insects.

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

4.13 Motor Vehicles. Except for emergency repairs, no automobile, motorcycle, motorbike or other motor vehicle shall be constructed, reconstructed, serviced or repaired on any portion of the Condominium, and no inoperable vehicle may be stored or parked on any portion of the Condominium. No automobile, motorcycle, motorbike or other motor vehicle shall be parked upon any part of the Condominium.

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 or any Limited Common Elements allocated to the Unit shall be constructed or installed without the prior written consent of the Board of Directors.

4.15 Towing of Vehicles. The Board of Directors shall have the right to have any truck, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, 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.

4.16 Signs. No signs (including, but not limited to, "For Sale" or "For Rent" signs) other than a name and address sign not exceeding any limitations or restrictions imposed by the Board of

Directors from time to time shall be permitted on the exterior of any Unit or Building or any other portion of the Condominium without the prior written approval of the Board of Directors.

4.17 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.

4.18 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 or other occupant of the Condominium or is an annoyance to any Unit Owner or other occupant. 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 the Condominium.

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

## ARTICLE 5

### MAINTENANCE AND REPAIR OF COMMON ELEMENTS AND UNITS

5.1 Duties of the Association. The Association shall maintain, repair and replace all Common Elements and other properties for which it is responsible or obligated, whether located inside or outside the Units or the Condominium, except for the Limited Common Elements which the Unit Owners are obligated to maintain, repair and replace pursuant to Section 5.2 of this Declaration. The foregoing duties shall expressly include the assumption, observance and performance by the Association of all obligations of the "Grantee" under that certain Ingress/Egress and Utility Easement recorded on August 31, 2000 in Docket 11374, commencing at Page 2795, in the Pima County, Arizona Recorder's Office. The cost of all such maintenance, repairs and replacements shall be a Common Expense and shall be paid for by the Association.

5.2 Duties of Unit Owners.

(a) Each Unit Owner shall maintain, repair and replace, at his own expense, all portions of his Unit.



(b) Each Unit Owner shall be responsible for the maintenance and repair of the following portions of the Common Elements: (i) the Limited Common Elements allocated to his Unit pursuant to Subsections 2.5(b) of this Declaration; (ii) the glass windows allocated to the Unit as Limited Common Elements pursuant to Section 2.8(a)(6) of this Declaration; (iii) all mechanical equipment and fixtures which only serve the Unit; and (iv) the concrete slab and all other Improvements within the interior of the patio allocated to the Unit as a Limited Common Element pursuant to Section 2.8(a)(1) of this Declaration.

5.3 Repair or Restoration Necessitated By 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, landscaping or equipment thereon which results from the negligence or willful conduct of the Unit Owner or any of his licensees, invitees, employees, agents, contractors or tenants. The cost to the Association of any such repair, maintenance or replacements required by such act of a Unit Owner 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.

5.4 Unit Owner's Failure to Maintain. If a Unit Owner fails to maintain in good condition and repair his Unit or any Limited Common Element which he is obligated to maintain under this Declaration and the required maintenance, repair or replacement is not performed within fifteen (15) days after written notice has been given to the Unit Owner by the Association, the Association shall have the right, but not the obligation, to perform the required maintenance, repair or replacement. The cost of any such maintenance, repair or replacement shall be assessed against the nonperforming Unit Owner pursuant to Subsection 7.2(d) of this Declaration.

#### ARTICLE 6

##### THE ASSOCIATION: RIGHTS AND DUTIES, MEMBERSHIP

6.1 Rights Powers and Duties of the Association. No later than the date on which the first Unit is conveyed to a Purchaser, the Association shall be organized as a nonprofit Arizona corporation. The Association shall be the entity through which the Unit Owners shall act. The Association shall have such rights, powers and duties as are prescribed by law and as are set forth in the Condominium Documents together with such rights, powers and duties as may be reasonably necessary in order to effectuate the objectives and purposes of the Association as set forth in this Declaration and the Condominium Act. The Association shall have the right to finance capital improvements in the Condominium by encumbering future Assessments if such action is approved by the written consent or affirmative vote of



limited, to: (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units, if any, which the Association has the responsibility of maintaining, repairing and replacing; (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 Subsection 7.2(d) or 7.2(e) of this Declaration.

(b) Within thirty (30) days after the adoption of a budget, the Board of Directors shall send to each Unit Owner a summary of the budget and a statement of the amount of the Common Expense Assessment assessed against the Unit of the Unit Owner in accordance with Section 7.2 of this Declaration. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as provided in Section 7.2 of this Declaration, 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.

(c) The Board of Directors is expressly authorized to adopt and amend budgets for the Association, and no ratification of any budget by the Unit Owners shall be required.

#### 7.2 Common Expense Assessment.

(a) 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(d) and 7.2(e) of this Declaration) shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in Section 2.6 of this Declaration. The amount of the Common Expense Assessment assessed pursuant to this Subsection 7.2(a) 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, it may increase the Common Expense Assessment for that fiscal year and



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

(a) Any Assessment, or any installment of an Assessment, which is not paid within five (5) 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.

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

(c) 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: (i) 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 (ii) 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

7.5 Subordination of Assessment Lien to Mortgages. The Assessment Lien shall be subordinate to the lien of any First Mortgage. Any First Mortgagee or any other party acquiring title or coming into possession of a Unit through foreclosure of a First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title free and clear of any claims for unpaid Assessments, monetary penalties and other fees and charges against the Unit which became payable prior to such sale or transfer. Any delinquent Assessments, monetary penalties and other fees and charges which are extinguished pursuant to this Section may be reallocated and assessed to all Units as at Common Expense. 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.

7.6 Exemption of Unit Owner. No Unit Owner may exempt himself from liability for payment of Assessments, monetary penalties and other fees and charges levied pursuant to the Condominium Documents by waiver and nonuse of any of the Common Elements and facilities or by the abandonment of his Unit.

7.7 Certificate of Payment. The Association on written request shall furnish to a lienholder, Unit Owner or 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 twenty (20) business days after receipt of the request and is binding on the Association, the Board of Directors, and every Unit Owner. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement.

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

7.9 Working Capital Fund. To insure that the Association shall have adequate funds to meet its expenses or to purchase necessary equipment or services, each Purchaser of a Unit from the Declarant shall pay to the Association, immediately upon becoming the Unit Owner of the Unit, a sum equal to two monthly installments of the Common Expense Assessment for the Unit. Such amount shall be non-refundable and shall not be considered as an advance payment of any Assessments levied by the Association pursuant to this Declaration.

7.10 Surplus Funds. Surplus funds of the Association remaining after payment of or provisions for Common Expenses and any prepayment of reserves may in the discretion of the Board of Directors either be returned to the Unit Owners pro rata in accordance with each Unit Owner's Common Expense Liability or be credited on a pro rata basis to the Unit Owners to reduce each Unit Owner's future Common Expense Assessments.

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

7.12 Transfer Fee. Each Purchaser of a Unit shall pay to the Association immediately upon becoming the Owner of the Unit a transfer fee in such amount as is established from time to time by the Board of Directors.

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ARTICLE 8

INSURANCE

8.1 Scope of Coverage.

(a) Commencing not later than the date of the first conveyance of a Unit to a Purchaser, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(1) Property insurance on the Common Elements and Units, exclusive of improvements and betterments installed in Units by Unit Owners, issued under a standard form "All Risk of Direct Physical Loss Form" in an amount equal to the maximum insurable replacement value of the Common Elements and Units, 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.

(2) Broad Form Comprehensive general liability insurance, for a limit to be determined by the Board, but not less than \$3,000,000.00 for any single occurrence. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Such policy shall include (i) a cross liability clause to cover liabilities of the Unit Owners as a group to a Unit Owner, (ii) medical payments insurance and contingent liability coverage arising out of the use of hired and nonowned automobiles, and (iii) coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

(3) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona.

(4) Directors' and officers' liability insurance covering all the directors and officers of the Association in such limits as the Board of Directors may determine from time to time.

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

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

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

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

(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 First Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial change in coverage or cancellation of the policy.

(viii) Any Insurance Trust Agreement will be recognized by the insurer.

(7) If there is a steam boiler used in connection with the Condominium, boiler explosion insurance evidenced by the standard form of boiler machinery insurance policy and providing coverage in the minimum amount of \$50,000.00 per accident per location.

(8) If the Condominium is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a "blanket policy" of flood insurance on the Condominium in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other property covered on the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended.

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(9) "Agreed Amount" and "Inflation Guard" endorsements.

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

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

8.3 Insurance Obtained by Unit Owners. The issuance of insurance policies to the Association pursuant to this Article shall not prevent a Unit Owner from obtaining insurance for his own benefit and at his own expense covering his unit, his personal property and providing personal liability coverage.

8.4 Payment of Insurance Proceeds. Any loss covered by property insurance obtained by the Association in accordance with this Article shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. The Association shall hold any insurance proceeds in trust for Unit Owners and lienholder as their interests may appear, and the proceeds shall be disbursed and applied as provided for in A.R.S. Section 33-1253.

8.5 Certificate of Insurance. An insurer that has issued an insurance policy pursuant to this Article 8 shall issue certificates or memoranda of insurance to the Association and, on written request, to any Unit Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy shall not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Unit Owner, and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

## ARTICLE 9

### RIGHTS OF FIRST MORTGAGEES

9.1 Notification to First Mortgagees. Upon receipt by the Association of a written request from a First Mortgagee or insurer or governmental guarantor of a First Mortgage informing the Association of its correct name and mailing address and number or address of the Unit to which the request relates, the Association shall provide such Eligible Mortgage Holder or Eligible Insurer Or Guarantor with timely written notice of the following:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer Or Guarantor;

(b) Any delinquency in the payment of Assessments or charges owed by a Unit Owner subject to a First Mortgage held, insured or guaranteed by such Eligible Mortgage Holder or Eligible Insurer Or Guarantor or any other default in the performance by the Unit Owner of any obligation under the Condominium Documents, which delinquency or default remains uncured for the period of sixty (60) days;

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

(d) Any proposed action which requires the consent of a specified percentage of Eligible Mortgage Holders as set forth in Section 9.2 of this Declaration.

9.2 Approval Required for Amendment to Declaration, Articles or Bylaws.

(a) The approval of Eligible Mortgage Holders holding First Mortgages on Units the Unit Owners of which have at least fifty-one percent (51%) of the votes in the Association allocated to Unit Owners of all Units subject to First Mortgages held by Eligible Mortgage Holders shall be required to add or amend any material provisions of the Declaration, Articles or Bylaws which establish, provide for, govern or regulate any of the following:

- (1) Voting rights;
- (2) Assessments, assessment liens or subordination of assessment liens;
- (3) Reserves for maintenance, repair and replacement of Common Elements;
- (4) Insurance or fidelity bonds;
- (5) Responsibility for maintenance and repairs;
- (6) Expansion or contraction of the Condominium, or the addition or annexation of property to the Condominium;
- (7) Boundaries of any Unit;
- (8) Reallocation of interests in the Common Elements or Limited Common Elements or rights to their use;
- (9) Convertibility of Units into Common Elements or of Common Elements into Units;

(10) Imposition of any restrictions on a Unit Owner's right to sell or transfer his Unit;

(11) Restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents;

(12) Any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs;

(13) Any provisions which expressly benefit First Mortgagees, Eligible Mortgage Holders or Eligible Insurers Or Guarantors.

(b) Any action to terminate the legal status of the Condominium for reasons other than substantial destruction or condemnation of the Condominium must be approved by Eligible Mortgage Holders holding mortgages on Units the Unit Owners of which have at least sixty-seven percent (67%) of the votes in the Association allocated to Unit Owners of all Units subject to First Mortgages held by Eligible Mortgage Holders.

(c) Any First Mortgagee who receives a written request to approve additions or amendments to the Declaration, Articles or Bylaws, which additions or amendments are not material, who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request. Any addition or amendment to the Declaration, Articles or Bylaws shall not be considered material if it is for the purpose of correcting technical errors or for clarification only.

(d) The approvals required by this Section shall not apply to amendments that may be executed by the Declarant in the exercise of its Development Rights.

9.3 Prohibition Against Right of First Refusal. The right of a Unit Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction.

9.4 Right of Inspection of Records. Any Unit Owner, First Mortgagee or Eligible Insurer Or Guarantor will, upon written request, be entitled to: (i) inspect the current copies of the Condominium Documents and the books, records and financial statements of the Association during normal business hours; (ii) receive within ninety (90) days following the end of any fiscal year of the Association, an audited financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the

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Association and be permitted to designate a representative to attend all such meetings.

9.5 Prior Written Approval of First Mortgagees. Except as provided by statute in case of condemnation or substantial loss to the Units or the Common Elements, unless at least two-thirds (2/3) of all First Mortgagees (based upon one vote for each Unit encumbered by a First Mortgage owned thereby) or Unit Owners (other than the Declarant or other sponsor, developer or builder of the Condominium) of the Units have given their prior written approval, the Association shall not be entitled to:

(a) By act or omission, seek to abandon or terminate this Declaration or the Condominium;

(b) Change the pro rata interest or obligations of any individual Unit for the purpose of: (i) levying Assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the Common Elements;

(c) Partition or subdivide any Unit;

(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this Subsection;

(e) Use Hazard insurance proceeds for losses to any Units or the Common Elements for any purpose other than the repair, replacement or reconstruction of such Units or the Common Elements.

Nothing contained in this Section or any other provisions of this Declaration shall be deemed to grant the Association the right to partition any Unit without the consent of the Unit Owners thereof. Any partition of a Unit shall be subject to such limitations and prohibitions as may be set forth elsewhere in this Declaration or as provided under Arizona law.

9.6 Liens Prior to First Mortgage. All taxes, assessments, and charges which may become liens prior to the First Mortgage under local law shall relate only to the individual Unit and not to the Condominium as a whole.

9.7 Condemnation or Insurance Proceeds. No Unit Owner, or any other party, shall have priority over any rights of any First Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Unit Owner of insurance proceeds or condemnation awards for losses to or a taking of Units and/or Common Elements.

ENCLOSURE

9.8 Limitation on Partition and Subdivision. No Unit shall be partitioned or subdivided without the prior written approval of the Holder of any First Mortgage on such Unit.

9.9 Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Article and any other provision of the Condominium Documents, the provisions of this Article shall prevail; provided, however, that in the event of any conflict or inconsistency between the different Sections of this Article or between the provisions of this Article and any other provision of the Condominium Documents with respect to the number or percentage of Unit Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers Or Guarantors that must consent to (i) an amendment of the Declaration, Articles or Bylaws, (ii) a termination of the Condominium, or (iii) certain actions of the Association as specified in Sections 9.2 and 9.5 of this Declaration, the provision requiring the consent of the greatest number or percentage of Unit Owners, First Mortgagees, Eligible Mortgage Holders or Eligible Insurers Or Guarantors shall prevail; provided, however, that the Declarant, without the consent of any Unit Owner being required, shall have the right to amend this Declaration, the Articles or the Bylaws during the Period of Declarant Control in order to (i) comply with the Condominium Act or any other applicable law if the amendment does not adversely affect the rights of any Unit Owner, (ii) correct any error or inconsistency in the Declaration, the Articles or the Bylaws if the amendment does not adversely affect the rights of any Unit Owner, or (iii) comply with the requirements 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 Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration.

## ARTICLE 10

### GENERAL PROVISIONS

10.1 Enforcement. The Association, or any Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Condominium Documents. Failure by the Association or by any Unit Owner to enforce any covenant or restriction contained in the Condominium Documents shall in no event be deemed a waiver of the right to do so thereafter

10.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

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10.3 Duration. The covenants and restrictions of this Declaration shall run with and bind the Condominium, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

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

10.5 Amendment.

(a) Except in cases of amendments that may be executed by a Declarant in the exercise of its Development Rights or under Section 33-1220 of the Condominium Act, by the Association under Section 33-1206 or 33-1216(D) of the Condominium Act, or by certain Unit Owners under Section 33-1218(B), Section 33-1222, Section 33-1223 or Section 33-1228(B) of the Condominium Act, the Declaration, including the Plat, may be amended only by a vote of the Unit Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

(b) Except to the extent expressly permitted or required by the Condominium Act, 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.

(c) 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.

(d) During the Period of Declarant Control, the Declarant shall have the right to amend the Declaration, including the Plat, to (i) comply with the Condominium Act or any other applicable law if the amendment does not adversely affect the rights of any Unit Owner, (ii) correct any error or inconsistency in the Declaration if the amendment does not adversely affect the rights of any Unit Owner, or (iii) 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.

(e) Any amendment adopted by the Unit Owners pursuant to Subsection 10.5(a) of this Declaration shall be signed by the

President or Vice President of the Association and shall be recorded with the County Recorder of each County in which any portion of the Condominium is located. Any such amendment shall certify that the amendment has been approved as required by this Section. Any amendment made by the Declarant pursuant to Subsection 10.5(d) of this Declaration or the Condominium Act shall be executed by the Declarant and shall be recorded with the County Recorder of each County in which any portion of the Condominium is located.

10.6 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

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

10.8 Binding Effect. 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, 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

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successors, assigns and grantess, 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.

10.9 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.

10.10 Topic Headings. The marginal or topical headings of the sections contained in this Declaration are for convenience only and do not define, limit or construe the contents of the sections or of this Declaration.

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

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

10.13 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.

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

10.15 Attorney' 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





Acknowledged before me, this 18th day of September, 2001 by Brigitte Eckman, the Trustee, V.P. of First American Title Insurance Company, as Trustee under Trust No. 4924, and not in its corporate capacity.

Rachel Lynn Turnipseed  
Notary Public

My Commission Expires:

7-2-2004



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NOTICE OF CONSENT

The undersigned Susan Scholl, by document recorded in Docket 11494 Page 6866, hereby executes the following Notice of Consent.

1. Background. National Bank of Arizona, a national banking association is the Beneficiaries of a Deed of Trust dated February 26, 2001, and recorded on February 27, 2001, Docket 11494 at Page 6866 of Pima County, Arizona Recorder's Office, (the "Loan Document"), SOK INVESTMENT HOLDING, L.L.C., an Arizona limited liability company ("SOK") is the Debtor of the Loan Document. SOK has requested National Bank of Arizona, consent to the Final Plat of the property described in Exhibit "A" attached hereto and recorded in Book 55 of Maps and Plats at Page 30 and to the Declaration of Covenants, Conditions and Restrictions recorded in Docket 11663 at Page 193 of the Pima County, Arizona Recorder's office ("Covenants").

2. Consent. National Bank of Arizona, hereby consents to the Final Plat, the Covenants, and any dedications in connection with the development, of the property subject to the Loan Document.

3. Effect of Notice. This Notice is being made only so that in the event that the Loan Document is foreclosed, any dedication, and the Covenants would not be extinguished thereby. Nothing contained herein shall subordinate the lien of the Loan Document to any lien created by the development, or the Covenants, and the foreclosure of any such lien encumbering the development property or the Covenants shall have no effect on the lien of the Loan Document.

DATED this 15<sup>th</sup> day of September, 2001.

National Bank of Arizona,  
a national banking association

By: Susan Scholl  
Its: Vice President

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STATE OF ARIZONA )  
 ) ss.  
County of Pima )

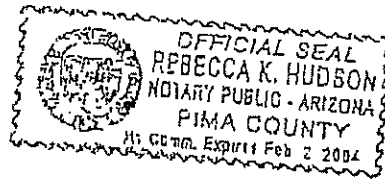
On September 19 2001, before me, the undersigned Notary Public, personally appeared Susan L. Scholl, personally known to me (or proven to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires:

2/2/04

  
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Notary Public





F. ANN RODRIGUEZ, RECORDER  
RECORDED BY: MRP  
DEPUTY RECORDER  
1591 PMS



DOCKET: 11986  
PAGE: 374  
NO. OF PAGES: 6  
SEQUENCE: 20022000006  
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AMOUNT 10.47

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TUCSON CITY CLERK  
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AMOUNT PAID 5 10.00

First American Title  
1880 E. River Road, Ste. 120  
Tucson, Arizona 85718  
Attention: Trust Dept.

**COPY**

FIRST AMENDMENT TO  
CONDOMINIUM DECLARATION FOR  
RILLITO BUSINESS PARK CONDOMINIUM

THIS AMENDMENT is made effective as of May 16, 2002, by First American Title Insurance Company, as Trustee under Trust No. 4924, and not in its corporate capacity, hereinafter referred to as "Declarant", in recognition of the following facts and intentions:

A. The Declarant executed that certain Condominium Declaration for Rillito Business Park Condominium ("Declaration") dated as of September 18, 2001, and recorded October 26, 2001 in Docket 11663 commencing at Page 193 of the Pima County, Arizona Recorder's Office. The Declaration affects the real property described in Exhibit A attached hereto and made a part hereof.

B. The undersigned Declarant desires to amend the Declaration according to the terms and provisions of this Amendment.

NOW, THEREFORE, the undersigned Declarant hereby amends the Declaration and confirms as follows:

1. Article 1, Section 1.2(aa)- Section 1.2(aa) is hereby deleted in its entirety and replaced with the following:

"Plat" means the amended and restated condominium plat for Rillito Business Park Condominium, which amended and restated plat has been recorded in Book 56 of Maps, Page 46, records of Pima County, Arizona, and any amendments, supplements or corrections thereto.

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2. Article 2, Section 2.6. Section 2.6 is hereby deleted in its entirety and replaced with the following:

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Allocation of Common Element Interest and Common Expense Liabilities. The undivided interests in the Common Elements and in the Common Expenses of the Association shall be allocated among the Units as provided in Exhibit B attached hereto and made a part hereof. Accordingly, each Unit's percentage interest in the Common Elements and in the Common Expenses of the Association shall be as set forth in said Exhibit B.

3. Article 2, Section 2.7. Section 2.7 is hereby deleted in its entirety and replaced with the following:

Allocation of Votes in the Association. The Association shall have one (1) class of voting membership. Each Unit Owner shall be entitled to vote its Unit's percentage interest in the Common Elements and in the Common Expenses of the Association as set forth in Exhibit B attached hereto multiplied by a total of one hundred (100) votes; provided, however, that notwithstanding any other provision of this Declaration, Declarant shall have the right, in its sole and absolute discretion, to appoint members of the Board of Directors and the officers of the Association until the expiration of the Period of Declarant Control. For purposes of illustration only, the Owner of Unit 15 shall be entitled to 2.6 votes.

4. Article 7, Section 7.13. Article 7 is hereby amended by adding new Section 7.13 thereto as follows:

7.13 Obligation of Declarant to Pay Assessments. Notwithstanding any other provision of this Declaration to the contrary, as to each Unit owned by Declarant of which construction thereof has not been substantially completed, Declarant shall be obligated to pay only twenty-five percent (25%) of the Common Expense Assessment otherwise levied and assessed against such Units until the time of such substantial completion. In consideration for the foregoing reduced Common Expense Assessment, the Declarant shall be obligated to pay to the Association any deficiency in monies due to the Declarant having paid a reduced Common Expense Assessment and necessary for the Association to be able to timely pay all Common Expenses.

5. Article 10, Section 10.3. Notwithstanding the provisions of Section 10.3, the Declaration may be amended at any time and from time to time as provided in Section 10.5 of the Declaration.


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UNION





Beneficial Approval

By: SOK Investment Holdings, L.L.C.

By:  Manager  
Its: Manager

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EXHIBIT A

Units 1 through 56 and Common Area "A" of REVISED FINAL PLAT FOR RILLITO  
BUSINESS PARK CONDOMINIUMS, as recorded in Book 56, Page 46.  
A plat of Rillito Business Park Condominiums, Units 1 through 36 and Common Areas  
"A" as recorded in Maps & Plat Book 55, Page 30, Being a subdivision of a portion of  
the Northwest 1/4 of Section 19, T13S, R14E, G&SRB&M, Pima County, Arizona.

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EXHIBIT B

RHKO Business Park - Area/Percent Table  
Total Combined BFTG/ACR Building Area = 64,561 sq. ft.

UNIT	AREA (SQ. FT.)	BUILDING	AREA (SQ. FT.)	% OF BUILDING	% OF TOTAL
1	1,882	1	2,585	35.2%	2.8%
2	1,211	1		17.8%	1.8%
3	1,886	1		26.7%	2.9%
4	1,254	1		17.3%	1.8%
5	1,434	2	6,511	21.5%	2.2%
6	2,856	2		43.8%	4.7%
7	1,236	2		18.2%	1.9%
8	1,833	2		27.8%	2.9%
9	1,283	3	7,261	23.1%	2.4%
10	1,722	3		25.8%	2.7%
11	1,432	3		21.6%	2.2%
12	488	3		7.4%	0.7%
13	488	3		7.4%	0.7%
14	488	3		7.4%	0.7%
15	1,580	3		23.8%	2.5%
16	1,522	4	16,261	50.1%	5.2%
17	858	4		13.2%	1.4%
18	858	4		13.2%	1.4%
19	858	4		13.2%	1.4%
20	858	4		13.2%	1.4%
21	1,342	4		20.5%	2.1%
22	1,342	4		20.5%	2.1%
23	780	4		11.8%	1.2%
24	780	4		11.8%	1.2%
25	1,714	4		26.4%	2.7%
26	1,882	5	8,261	25.2%	2.6%
27	340	5		5.2%	0.5%
28	1,581	5		23.9%	2.5%
29	858	5		13.1%	1.4%
30	874	5		13.3%	1.4%
31	1,087	5		16.5%	1.7%
32	1,135	5		17.3%	1.8%
33	1,087	5		16.5%	1.7%
34	870	5		13.1%	1.4%
35	1,127	5	13,243	40.3%	4.1%
36	1,351	5		20.4%	2.1%
37	858	5		13.1%	1.4%
38	878	5		13.4%	1.4%
39	1,819	5		27.5%	2.8%
40	774	5		11.7%	1.2%
41	687	5		10.4%	1.1%
42	1,288	5		19.7%	2.0%
43	1,881	5		28.5%	2.9%
44	858	5		13.1%	1.4%
45	858	5		13.1%	1.4%
46	718	5		10.9%	1.1%
47	1,554	5		23.9%	2.5%
48	3,484	7	11,266	34.3%	3.5%
49	844	7		12.9%	1.3%
50	874	7		13.4%	1.4%
51	1,408	7		21.8%	2.2%
52	1,285	7		19.7%	2.0%
53	780	7		11.9%	1.2%
54	854	7		13.1%	1.4%
55	1,722	7		26.5%	2.7%
56	1,880	7		28.8%	2.9%

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