

**SKYRANCH AIRCRAFT STORAGE  
~~CONDOMINIUM~~SECOND AMENDED AND RESTATED CONDOMINIUM  
DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This SkyRanch Aircraft Storage ~~Condominium~~Second Amended and Restated Condominium Declaration of Covenants, Conditions and Restrictions (“Declaration”) is ~~dated for reference purposes as of the 18th day of November, 2009, with reference to the following recitals that are expressly made part of this Declaration~~made on the day hereinafter set forth by SkyRanch Aircraft Storage Condominium Association, an Arizona nonprofit corporation (the “Association”).

**RECITALS:**

A. ~~On October 29, 1986, Woods Development Corporation, as Declarant, caused to be recorded in the Official Records of the Maricopa County Recorder as instrument number 86-593383, the Declaration Establishing~~June 16, 2010, the Association and Owners recorded the SkyRanch Aircraft Storage Condominium Amended and Restated Declaration of Covenants, Conditions and Restrictions (the “1986, at instrument number 2010-0512670, official records of Maricopa County, Arizona Recorder (the “Previous Declaration”)).

B. ~~The 1986 Declaration was subsequently amended and/or modified by the following recorded instruments: Amendment recorded on February 20, 1990, as instrument number 90-076089; Amendment recorded on June 22, 1990, as instrument number 90-281433; Unilateral Relinquishment of Class B Voting Rights, recorded on June 22, 1990, as instrument number 90-281439; Amendment recorded on January 27, 1992, as instrument number 92-0042532; Second Amendment recorded on November 8, 1993, as instrument number 93-0772768; and Third Amendment recorded on April 2, 2002, as instrument number 2002-0335090 (collectively, the “Amendments”).~~Previous Declaration governs that certain parcel of real property located in Maricopa County, Arizona, described and depicted on Exhibit "A" attached hereto (the “Parcel”).

C. ~~The 1986 Declaration and the Amendments are hereinafter collectively referred to as the “Original Declaration.”~~Association, by and through the Owners, wishes to amend and restate the Previous Declaration in its entirety as set forth herein.

~~D. The Declarant no longer holds an interest in the Condominium, and the Original Declaration provides that the Original Declaration may be amended by an instrument signed and acknowledged by Owners of Units to which not less than seventy-five percent (75%) of the undivided ownership of the Common Elements is appurtenant.~~

~~E. The undersigned, constituting more than seventy-five percent (75%) of the Owners of the undivided interests in the Common Elements, hereby desire by this instrument to completely amend and restate the Original Declaration according to the terms and conditions herein provided.~~

~~F. From and after the date that this Declaration is recorded in the Official Records of the Maricopa County Recorder, this Declaration (i) first, approves and ratifies the Amendments to the 1986 Declaration itemized in Recital B above and the amendments to the Plat itemized in Section 1.31 below; and (ii) second, amends, supersedes and replaces the Original Declaration in its entirety.~~D. Therefore, the Association hereby declares that the Parcel is and shall be held,

conveyed, encumbered, leased and used subject to the following covenants, conditions, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Parcel and Condominium. The covenants, conditions, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens set forth herein shall run with the Parcel, shall be binding upon all persons having or acquiring any interests in the Parcel or any part thereof, shall inure to the benefit of every portion of the Parcel and any interest therein, and shall inure to the benefit of and be binding upon each Owner and his/her respective successors in interest.

~~—NOW, THEREFORE, the undersigned Owners, for the purposes hereinafter set forth, declare as follows:~~

## ARTICLE 1 DEFINITIONS

~~1. Definitions.~~ As used herein, unless the context otherwise requires, the following terms shall have the following definitions.

1.1 “Act” means Title 33, Chapter 9 of the Arizona Revised Statutes, as amended from time to time.

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

1.3 “Assessments” mean the Regular Assessments, Special Assessments, Individual Expense Assessments, User Fee Assessments and Enforcement Assessments all levied pursuant to Article 7.5.

1.4 “Assessment Lien” means the lien granted to the Association by this Declaration and the Act to secure the payment of ~~Regular and Special~~ Assessments and any interest, late fees, Collection Costs and other fees and charges owed to the Association with respect to such ~~Regular and Special~~ Assessments.

1.5 “Association” means SkyRanch Aircraft Storage Condominium Association, an Arizona nonprofit corporation, ~~its~~ successors and assigns, and unless otherwise provided, shall mean and include its board of directors, officers and other authorized agents.

1.6 “Board” shall mean the board of directors of the Association.

1.7 “Building” or “Buildings” means each of the buildings now or hereafter located on the Parcel and containing Units as shown on the Plat.

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

1.9 “Collection Costs” mean all costs, fees, charges and expenditures (including, without limitation, collection fees, attorneys’ fees, court costs, filing fees and recording fees) incurred by the Association in collecting and/or enforcing payment of Assessments.

1.10 ~~“Condominium” means (a) the Parcel, (b) the Units comprising the Condominium hereby created, and (c) the Common Elements, including all Buildings improvements and other permanent fixtures of whatsoever kind situated on the Parcel and all rights, privileges and appurtenances thereto, intended for the mutual use, benefit and enjoyment of the Owners; and such term shall in general have the same meaning as set forth in Arizona Revised Statutes §33-1202(10), as it relates to the Condominium.~~

~~1.11~~ “Common Elements” mean the “common elements”, as that term is defined in the Arizona Revised Statutes §33-1202(7), including without limitation the land on which the buildings are constructed, the foundations, floors, roofs, load bearing columns, block walls and steel walls of the buildings, parking areas and all other portions of the Condominium, except the Units. “Common Elements” shall include any Limited Common Elements as may be hereinafter described.

~~1.12~~1.11 “Common Expenses” mean the actual or estimated costs or expenses incurred or to be incurred by the Association or financial liabilities of the Association including, without limitation, the following:

- (a) The cost of maintenance, management, operation, repair and replacement of the Common Elements and all other areas within the Condominium which are maintained by the Association;
- (b) The cost of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, architects and employees;
- (c) The cost of any utilities, trash pickup and disposal, landscaping, and other services benefiting the Unit Owners and their Units to the extent such services are paid for by the Association;
- (d) The cost of fire, casualty, liability, worker’s compensation and other insurance maintained by the Association as provided in this Declaration;
- (e) Reasonable reserves as deemed appropriate by the Board or required by the Condominium Documents;
- (f) The cost of insuring and/or bonding the directors, officers and employees of the Association, any professional managing agent or any other person handling the funds of the Association;
- (g) Taxes paid or accrued by the Association;
- (h) Amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Elements or portions thereof; and

(i) Any cost incurred by the Association in furtherance of the purposes of the Association, the discharge of the obligations imposed on the Association by the Condominium Documents or the Act or the exercise by the Association of any of the powers or rights granted to the Association by the Condominium Documents or the Act.

~~4.13~~1.12 “Common Expense Liability” means the percentage of undivided interests in the Common Expenses allocated to each Unit by Section 3.4.2.6.

1.13 “Condominium” means (a) the Parcel, (b) the Units comprising the Condominium hereby created, and (c) the Common Elements, including all Buildings, improvements and other permanent fixtures of whatsoever kind situated on the Parcel and all rights, privileges and appurtenances thereto, intended for the mutual use, benefit and enjoyment of the Owners; and such term shall in general have the same meaning as set forth in Arizona Revised Statutes §33-1202(10), as it relates to the Condominium.

1.14 “Condominium Documents” mean this Declaration and the Articles, Bylaws, and Rules.

~~1.15~~ “~~Declarant~~” means ~~Woods Development Corporation, an Arizona corporation.~~

1.16 “Declaration” means this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

1.17 “Enforcement Assessment” means an assessment levied pursuant to Section 7.6.5.6.

1.18 “Hangar Unit” means collectively: (a) an enclosed airplane hangar space that is sufficient in size to hold a full-size aircraft, and (b) an enclosed airplane hangar space that is combined with an adjacent storage space (which storage space is equivalent to a half-hangar). The Unit number of each Hangar Unit is depicted on the Plat and listed on Exhibit “B” attached hereto. There are ~~120~~123 Hangar Units, ~~consisting of 109; some Hangar Units are solely~~ airplane hangars and ~~44~~some Hangar Units are a combination of airplane hangar and storage space. A Hangar Unit does not include a Storage Unit defined under Section 1.38.

1.19 “Individual Expense Assessment” means an assessment levied by the Association pursuant to Section 7.4.5.4.

1.20 “Lease” means any agreement for the leasing or rental of a Unit and the interest in the Common Elements appurtenant to such Unit, or any portion thereof.

1.21 “~~Majority~~” or “Majority of Owners” means Owners holding more than fifty percent (50%) of the ~~Owners of Units~~votes then entitled to ~~vote~~be cast.

1.22 “Member” means a Person who is or becomes a member of the Association by virtue of being a Unit Owner as defined in Section 1.25 below. A Member is required to be a Unit Owner, and a Unit Owner is, by definition, a Member.

1.23 “Mortgage” means any Recorded, filed or otherwise perfected instrument given in good faith and for valuable consideration which is not a fraudulent conveyance under obligation, including without limitation a deed of trust, but does not mean any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code, or any judgment lien, mechanic's lien, tax lien or similar involuntary lien or encumbrance on a Unit. “Mortgagee” means a person secured by a Mortgage, including a trustee and beneficiary under a deed of trust. “Mortgagor” means the party executing a Mortgage. “First Mortgage” means a Mortgage which is the first and most senior of all Mortgages upon the same property. “First Mortgagee” means a Mortgagee secured by a First Mortgage.

1.24 “Occupant” means a person or persons, other than an Owner, in rightful possession of a Unit.

1.25 “Owner” or “Unit Owner” means the record owner, whether one or more persons or entities, of the fee simple title, whether or not subject to any Mortgage, to any Unit which is a part of the Condominium, including a purchaser under an agreement for sale within the meaning of A.R.S. §33-741, but does not mean those having such interest merely as security for the performance of an obligation. In the case of Units the legal title to which is vested of record in a trustee pursuant to Arizona Revised Statutes §33-801 et seq., the trustor shall be deemed to be the owner thereof.

1.26 “Parcel” means the parcel of real estate described on Exhibit “A” attached hereto, which is hereby submitted to a condominium form of description and ownership.

1.27 “Parking Space” means a portion of the Common Elements intended for the parking of a single motor vehicle, not including an aircraft.

1.28 “Party Wall” means a wall located between two Units.

1.29 “Perimeter Building Wall” means the exterior structural wall of a 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 that constitute any part of the finished surfaces of the interior surface of a Perimeter Building Wall. Perimeter Building Walls are Common Elements, and all hangar doors, exterior doors, windows, casings, jambs and frames within a Perimeter Building Wall are Limited Common Elements.

1.30 “Person” means a natural individual, corporation, partnership, trustee or other entity capable of holding title to real estate.

1.31 “Plat” means the plat of survey of the Condominium as hereinbefore recorded in Book 303 of Maps, Page 8, in the Official Records of the Maricopa County Recorder, as amended by the Amendment recorded on February 20, 1990, as instrument number 90-076089; Amendment recorded on January 27, 1992, as instrument number 92-0042532; Second Amendment recorded on November 8, 1993, as instrument number 93-0772768; Third Amendment recorded on April 2, 2002, as instrument number 2002-0335090; the plat for SkyRanch Aircraft Storage Condominium - Phase II, recorded in Book 588 of Maps, Page 45, and as instrument number 2002-0335089; ~~and~~ the Map of Correction recorded on June 16, 2010 in Book 1057, Page 38, and as

instrument number ~~20100509828~~; 2010-0509828, in the Official Records of the Maricopa County Recorder. ~~The Map of Correction is sometimes referred to herein and on the Owner Ratifications attached hereto as “the Re-Plat for SkyRanch Aircraft Storage Condominium” or as “the Re-Plat.”; and the Unit Split for Units C9, D1, D8 SkyRanch Aircraft Storage Condominium, recorded on October 20, 2016 in Book 1294, Page 50, and as instrument number 2016-0770902, in the Official Records of the Maricopa County Recorder.~~

~~1.32 “Purchaser” means any Person who becomes a Unit Owner.~~

1.33 “Record” or “Recording” refers to the record or the act of recording, in the Official Records of the Maricopa County Recorder.

1.34 “Regular Assessment” means the assessment levied against the Units pursuant to ~~Section 7.2~~; 5.2.

1.35 “Rules” mean the SkyRanch Flight Association and SkyRanch Storage Condominium Association Airport Operation and Safety Regulations, as amended from time to time, and any other rules and regulations adopted by the Board of Directors from time to time.

1.36 “Special Assessment” means the assessment levied against the Units pursuant to ~~Section 7.3~~; 5.3.

1.37 “Special Use Permit” means Town of Carefree Ordinance No. 85-22 and Ordinance No. 99-03, and any amendments thereto, copies of which are attached hereto as Exhibit “C” and incorporated herein by reference.

1.38 “Storage Unit” means a half-size storage hangar space depicted on the Plat and listed on Exhibit “B” attached hereto. There are two (2) Storage Units. The term “Storage Unit” does not include a storage space that is combined with a hangar space to constitute a Hangar Unit defined under Section 1.18.

1.39 “Town” means the Town of Carefree, Arizona.

1.40 “Tie Down Unit” means an uncovered Unit that is intended for use as an outdoor parking space for aircraft. The location and dimensions of each Tie Down Unit are shown on the Plat. The Tie Down Units are depicted on the Plat and listed on Exhibit “B” attached hereto. There are eleven (11) Tie Down Units. If an airplane hangar Building is built within the space depicted on the Plat as a Tie Down Unit, upon issuance of a certificate of occupancy for that Building, the Tie Down Unit will cease to be treated as a Tie Down Unit and it will thereafter automatically convert to a Hangar Unit.

1.41 “Unit” means each portion of the Condominium which consists of a Hangar Unit, Storage Unit or Tie Down Unit, as shown on the Plat and as listed on Exhibit “B”. The boundaries of each Unit, other than a Tie Down Unit, are described in Section 3.1 below. The boundaries of each Tie Down Unit are shown on the Plat. The term “Unit” as used herein shall have the same meaning as that defined in Arizona Revised Statutes §33-1202(22). There shall be allocated and appurtenant to each Unit an undivided interest in the Common Elements as set ~~for~~ forth in ~~Section 3.4~~; 2.6 hereof.

1.42 “User Fee Assessments” means (a) any payments, fees or charges imposed by the Association pursuant to Section 7.55.5 for the use, rental or operation of the Common Elements, other than Limited Common Elements intended to serve a single Unit, and for services provided to Unit Owners; and (b) reasonable charges imposed by the Association pursuant to Section 7.55.5 for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments.

~~2.~~ 1.43 “Visible From Neighboring Property” means, with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing at ground level on any part of an adjoining Unit, Common Element, Limited Common Element or other property.

**ARTICLE 2**  
**ESTABLISHMENT OF CONDOMINIUM,**  
**DESCRIPTION OF THE UNITS AND THE COMMON ELEMENTS, AND**  
**ALLOCATION OF PERCENTAGE INTERESTS AND OBLIGATIONS**

2.1 Establishment of the Condominium. The ~~undersigned hereby reaffirm the establishment of the~~ Condominium has been established pursuant to Title 33, Chapter 9 of the Arizona Revised Statutes, and ~~do hereby declare that all of the~~ Units shall be owned, leased, sold, conveyed and encumbered or otherwise held or disposed of subject to the terms, conditions and other provisions of the Condominium Documents, and the Special Use Permit. In the event of any conflict between the terms of the Condominium Documents and the Special Use Permit, the terms of the Special Use Permit shall prevail.

~~3. Description of the Units and the Common Elements~~ 2.2 Condominium. The entire Condominium shall consist of the Common Elements and the Units.

~~3.12.3~~ Units and Unit Boundaries. There are a total of ~~133~~ 136 Units in the Condominium. The boundaries of each Hangar Unit and Storage Unit (but not Tie Down Unit) are as follows: (a) the vertical boundaries are the interior unfinished surfaces of the Perimeter Building Walls of the Unit and a vertical plane running through the center of any Party Wall separating the Unit from another Unit; (b) the lower horizontal boundary is the horizontal plane of the top surface of the unfinished slab of the Unit; and (c) the upper horizontal boundary is the horizontal plane of the bottom surface of the roof truss of the Unit. The boundaries of each Tie Down Unit are shown on the Plat. Each Unit's identifying number is set forth on the Plat. Each Unit shall include the space enclosed and bounded by the boundaries of that Unit described ~~on the Plat~~ on the Plat, plus as to any Hangar Unit, Small Unit and Storage Unit (but not Tie Down Unit), any plumbing fixtures or lines and electrical or refrigeration equipment or lines which exclusively serve such Unit; provided, however, that no portion of the roof, support columns and footing, bearing walls or other structural components of the Building in which each Unit is located and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of a Unit. In the event of any inconsistency or conflict between the provisions of this Section 3.12.3 and the Plat in regard to the description of the boundaries of a Unit, this section shall control.

3.2.4 Common Elements. The Common Elements are all of those portions of the Condominium not included within the description of the Units as provided in Section 3.1.2.3 hereof. A further description of the Common Elements is as set forth in Section 4.11.10 hereof and as further delineated on the Plat.

3.3.5 Limited Common Elements. The Limited Common Elements are portions of the Common Elements allocated hereby for the exclusive use of certain Unit Owners. The hangar doors, as more specifically delineated on the Plat, all drive motors, seals, latches, locking devices and all other equipment related to the hangar doors and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Limited Common Elements, and subject to the rights of the Association set forth in Section 12.2.6.2 hereof, are for the exclusive use and benefit of the Unit Owner benefitted thereby. Any such Limited Common Element may be reallocated with respect to the Unit/Units benefitted by an amendment to this Declaration executed pursuant to Section 24 according to the process, requirements, and approval set forth in A.R.S. § 33-1218(B) of the Act, without the approval otherwise required by Section 12.3 hereof.

3.4.6 Allocation of Common Element Interest and Common Expense Liabilities. Each Unit is allocated a percentage of undivided interests in the Common Elements and in the Common Expenses calculated as follows: each Hangar Unit and Tie Down Unit shall be allocated a full share, and except that each Hangar Unit that has been split shall be allocated a one-half share; each Storage Unit shall be allocated a one-half share. The percentage of undivided interests of each Unit is set forth on Exhibit "B" attached to this Declaration and shall be binding upon the Owners for all purposes under this Declaration. 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. Except as permitted by the Act, the Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated is void.

3.5.7 Hangar Unit Subdivision. A single Hangar Unit that is a combination of airplane hangar and storage space may be split or subdivided once into two Hangar Units in accordance with the terms herein and A.R.S. § 33-1223. Such relocation shall be made by an amendment to this Declaration and to the Plat that is executed by the Owner of the Hangar Unit and by the Association. Each resulting Hangar Unit shall have one-half (1/2) vote and shall have half a share of undivided interests in the Common Elements and in the Common Expenses of the original Hangar Unit.

2.8 Restriction on Transfer ~~Leasing or Leasing of a Portion of a Unit.~~ Except as provided in Section 2.7 herein, no portion of a Unit may be transferred or leased. Without limitation to any other provision herein, any Hangar Unit consisting of a hangar space combined with a storage space must be sold, assigned, conveyed or leased as an undivided unit, so that the



hangar space may not be sold, assigned, conveyed or leased separate from the storage space, and vice versa.

### ARTICLE 3 EASEMENTS

4.3.1 Use of Common Elements. There shall be appurtenant to each Unit a non-exclusive and perpetual right and easement to use the Common Elements except as otherwise provided in Section 2.5 hereof, as may be required for the purposes of access, ingress and egress to and from, and the use, occupancy, and enjoyment of the Units and the Common Elements for their intended purposes as provided herein. Such right and easement shall extend to each Occupant and the agents, employees, family members and invitees of the Owner or Occupant of each Unit. Such right and easement shall be subject to such limitations, restrictions, rules and regulations as may from time to time be promulgated by the Board including. The Board shall have authority to lease, convey easements or grant concessions consistent with the overall character and use of the Condominium with respect to parts of the Common Elements and to change the character, description and use thereof, subject to the provisions of the Act, this Declaration, the Articles, Bylaws and Rules. Any funds received by the Association from leases, concessions or other sources shall be held and used for the benefit of the Members pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe. Notwithstanding anything contained herein to the contrary, there shall be no restriction upon any Owner's right of ingress and egress to or from such Owner's Unit, which right shall be perpetual and appurtenant to the ownership of such Owner's Unit.

3.2 Utility Easement. Notwithstanding any other provisions hereof, there is hereby created a blanket non-exclusive easement upon, across, over and under the Condominium (other than the interior of the Units) and the Common Elements for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including by way of illustration, but not of limitation, water, sewer, gas, telephone, electricity, television cable, internet, and communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Common Elements and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of the Buildings; provided, that no such utility and service line or system may be installed or relocated on the Common Elements except as initially planned and approved or as thereafter approved by the Board. This easement shall in no way affect any other previously recorded easements which affect the Condominium.

3.3 Encroachments. If any portion of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portion of the Common Elements, or if any Unit or doorway providing ingress and egress thereto or therefrom shall actually encroach upon another Unit or doorway, as the Common Elements and the Units are shown on the Plat, whether such encroachment results from the initial construction or from subsequent repair, reconstruction, settlement or shifting, there shall be deemed to mutual easements in favor of the Owners of the Common Elements and the respective Unit Owners involved to the extent of such encroachment so long as the same shall exist; provided, however, that no such easement shall result from any alteration, addition or improvement made by an Owner without the prior written approval of the Board. The Association shall at all times have the right to maintain any Common Elements now existing or hereafter constructed, regardless of any encroachment now or hereafter existing of any such Common Elements upon any Unit.

3.4 Entry by Board or its Agent. The Board or its authorized agents may enter any Unit at any time for any proper Association purpose. If it becomes necessary to break into a Unit because no key or means of access was provided by the Occupant or Owner, the Association, its directors, officers and agents shall not be liable for any damage done to the Unit as a result of the exercise of this right of entry. The party exercising this right of entry shall see that reasonable measures are taken to secure the Unit until either the Occupant or Owner shall be notified that the Unit has been entered.

#### ARTICLE 4 THE ASSOCIATION, MEMBERSHIP, AND VOTING

4.1 Association. The Association has been formed to constitute the “Unit Owners' Association,” as that term is defined in Arizona Revised Statutes §33-1202(4). The Association shall serve as the governing body for all of the Owners for the protection, improvement, alteration, expansion, augmentation, disposal, divestment, redescription, maintenance, repair, replacement, administration and operation of the Condominium, the assessment of expenses, payment of losses, dispositions of hazard insurance proceeds received by the Association, and other matters as provided in the Act and in the Condominium Documents. The Association shall ~~not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of~~ 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.

4.2 Board of Directors. Unless the Condominium Documents or the Act specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board of Directors. In the event of any dispute or disagreement between any Owners relating to the Condominium, or any question of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Board shall be final and binding on each and all of such Owners, subject to any judicial determination. Each director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, limited liability company, partnership or trust, a director may be an officer, member, manager, partner, trustee or beneficiary of such Owner). Notwithstanding the foregoing, a majority of the directors on the Board shall be Unit Owners. If a director shall cease to meet such qualifications during his/her term, he or she will thereupon cease to be a director and his/her place on the Board shall be deemed vacant.

4.3 Membership. Each Owner shall be a Member of the Association as soon and so long as he or she shall be an Owner. Such membership shall automatically terminate when an Owner ceases for any reason to be an Owner, and the new Owner shall likewise automatically succeed to such membership in the Association. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Unit to which it is appurtenant (and then only to the purchaser involved in such sale) or by intestate succession, testamentary disposition, foreclosure of a Mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the Person to whom such fee simple title is transferred). Any attempt to make a prohibited transfer of a membership will be void and will not be recognized by or reflected upon the

books and records of the Association. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his/her name upon the sale of such Owner's Unit to the purchaser of such Owner's Unit, the Association shall have the right to enter a transfer upon the books of the Association and issue a new membership to the purchaser, and thereupon the old membership outstanding in the name of the seller shall be null and void as though the same had been surrendered.

~~4.1 — Membership~~ 4.4 Voting.

~~4.1.1~~ 4.4.1 The votes in the Association shall be allocated among the Units as follows: each Hangar Unit and Tie Down Unit shall be allocated one (1) vote, ~~and each;~~ provided any Hangar Unit that has been split shall be allocated one-half (1/2) vote. Each Storage Unit shall be allocated one-half (1/2) vote; provided that the vote allocated to any Tie Down Unit owned exclusively by the Association shall be ~~suspended~~ inactive (and therefore not available to be voted) for so long as the Association owns that Tie Down Unit. The ~~suspension of the~~ vote allocated to any Tie Down Unit owned by the Association shall ~~terminate~~ reactivate upon the conveyance of all or any portion of the fee ownership of that Tie Down Unit to a ~~Purchaser~~ Person other than the Association.

~~4.1.2~~ 4.4.2 When more than one (1) Person holds an interest or interests in any Unit (“Co-owners”), all such Co-owners shall be Members of the Association and may attend any meeting of the Association, but only one (1) such Co-owner shall be entitled to exercise the votes allocated to that Unit. If only one (1) of several Co-owners of a Unit is present at a meeting of the Association, that Co-owner is entitled to cast the vote allocated to that Unit. Co-owners owning a majority of the interests in a Unit may from time to time designate in writing to the Association which Co-owner may vote. Fractional voting among Co-owners shall not be allowed. Where no voting Co-owner is designated or if the designation has been revoked, the vote for the Unit shall be exercised by the Co-owners owning a majority of the interests in the Unit. Unless the Board of Directors receives a written objection in advance from an absent Co-owner, it shall be conclusively presumed that the corresponding voting Co-owner is acting with the consent of all Co-owners. No vote shall be cast for any Unit if the Co-owners present in person or by ballot owning a majority of the interests in such Unit cannot agree to said vote or other action. The nonvoting Co-owner or Co-owners shall be jointly and severally liable for all of the obligations imposed upon the jointly owned Unit and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting established herein, or in the Bylaws, shall be deemed to be binding on all Owners (including all Co-owners), their successors and assigns, ~~including, without limitation, a Purchaser of a Unit.~~

~~4.2 — Qualifications of Directors.~~ ~~Each director shall be an Owner or the spouse of an Owner (or if an Owner is a corporation, limited liability company, partnership or trust, a director may be an officer, member, manager, partner, trustee or beneficiary of such Owner). If a director shall cease to meet such qualifications during his term, he will thereupon cease to be a director and his place on the Board shall be deemed vacant.~~ 4.4.3 The Board may suspend the right of any Unit Owner to vote for any period during which any Assessment attributable to such Owner's Unit remains unpaid or for any reasonable time period for any violation of the Declaration or the Rules.

~~4.3 Board's Determination Binding. Subject to the right of any Owner to institute an action at law or in equity pursuant to the provisions of Section 23 hereof, in the event of any dispute or disagreement between any Owners relating to the Condominium, or any question of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Board shall be final and binding on each and all of such Owners.~~

~~4.4 Action by Owners. To the extent permitted by the Act, all actions required to be taken by the Owners, acting as a Unit Owners Association for the Condominium, shall be taken by the Association acting as such Unit Owners Association, by and through its directors and officers.~~

~~4.5 Additional Provisions in Articles, Bylaws and Rules of the Association. The Articles, Bylaws and Rules may contain any provision not inconsistent with the law or with this Declaration relating to the conduct of the affairs of the Association and rights and powers of its directors, officers, employees, agents and members.~~

4.5 Rules. The Board of Directors, from time to time and subject to the provisions of this Declaration and the Act, may adopt, amend, and repeal rules and regulations. The Rules may, among other things, restrict and govern the use of any area by any Unit Owner, by the family of such 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 Act, this Declaration, the Articles or Bylaws. Notwithstanding the generality of the foregoing, the Board shall have full authority to establish, maintain, assign and manage the Parking Spaces for and on behalf of all Owners, and the use thereof shall be subject to such rules and regulations as may be imposed by the Board. 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 and may be Recorded.

#### 4.6 Limitation of Liability.

4.6.1 Personal Liability. No director or officer of the Association, no member of any committee of the Association, and no other person acting on behalf of the Board of Directors shall be personally liable to any Member, or to any other Person for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence in the discharge of such person's duties and responsibilities under the Condominium Documents provided such person acted in good faith and without intentional misconduct.

4.6.1 Director Liability. In accordance with the provisions of the Arizona nonprofit corporation act (set forth at A.R.S. § 10-3101 et seq., as may be amended from time to time), each member of the Board of Directors shall be immune from civil liability and shall not be subject to suit indirectly or by way of contribution for any act or omission resulting in damage or injury if such member of the Board was acting in good faith and within the scope of his/her official capacity (which is any decision, act, or event undertaken by the Association in furtherance of the purpose or purposes for which it is organized) unless such damage or injury was caused by willful and wanton or grossly negligent conduct of the Board member. This provision intends to give all Board members the full extent of immunity available under the Arizona nonprofit corporation act.

#### 4.7 Books and Records.

4.7.1 Except as provided ~~in Section 4.7.2, herein,~~ all financial and other records of the Association shall be made reasonably available for examination by any Owner or any person designated by the Owner in writing as the Owner's representative.

4.7.2 Books and records kept by or on behalf of the Association and the Board of Directors may be withheld from disclosure to the extent that the portion withheld relates to any of the following:

- (a) Privileged communication between an attorney for the Association and the Association;
- (b) Pending or contemplated litigation;
- (c) Meeting minutes or other records of a session of a Board of Directors meeting that is not required to be open to all Owners pursuant to applicable law;
- (d) Personal, health and financial records of an individual Owner, an individual employee of the Association or an individual employee of a contractor for the Association; or
- (e) Records relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the Association or an individual employee of a contractor of the Association who works under the direction of the Association; or
- (f) Records permitted by law to be withheld by the Association.

4.7.3 The Association shall not be required to disclose financial and other records of the Association if disclosure would violate any state or federal law.

4.8 Annual Review, Audit, or Compilation. The Board of Directors shall provide for an annual financial audit, review or compilation of the Association. The audit, review or compilation shall be completed no later than one hundred eighty days after the end of the Association's fiscal year and shall be made available upon request to the Unit Owners within thirty days after its completion.

~~4.9 Conflict of Interest. If any contract, decision or other action for compensation taken by or on behalf of the Board of Directors would benefit any member of the Board of Directors or any person who is a parent, grandparent, spouse, child or sibling of a member of the Board of Directors or a parent or spouse of any of those persons, that member of the Board of Directors shall declare a conflict of interest for that issue. The member shall declare the conflict in an open meeting of the Board before the Board discusses or takes action on that issue and that member may then vote on that issue. Any contract entered into in violation of this section is void and unenforceable.~~ 4.9 Conflict of Interest. Any director's conflict of interest transactions shall be decided in accordance with the requirements and procedures of the Act and the Arizona nonprofit corporation act.

~~5. — Use of Common Elements. There shall be appurtenant to each Unit a non-exclusive and perpetual right and easement to use the Common Elements except as otherwise provided in Section 3.3 hereof, as may be required for the purposes of access, ingress and egress to and from, and the use, occupancy and enjoyment of the Units and the Common Elements for their intended purposes as provided herein. Such right and easement shall extend to each Occupant and the agents, servants, family members and invitees of the Owner or Occupant of each Unit. Such right and easement shall be subject to such limitations, restrictions, rules and regulations as may from time to time be promulgated by the Board including, but not limited to, the right of the Board to suspend the right of any Unit Owner to vote pursuant to the provisions of Section 4.1 hereof for any period during which the Common Expenses attributable to such Owner's Unit as provided in Section 7 hereof remain unpaid or for a period not to exceed sixty (60) days for any violation of regulations adopted and published by the Board, and shall be subject to and governed by the provisions of this Declaration, the Articles and Bylaws. The Board shall have authority to lease, convey easements or grant concessions consistent with the overall character and use of the Condominium with respect to parts of the Common Elements and to change the character, description and use thereof, subject to the provisions of the Act, this Declaration, the Articles, Bylaws and Rules. Any funds received by the Association from leases, concessions or other sources shall be held and used for the benefit of the Members pursuant to such rules, resolutions or regulations as the Board may adopt or prescribe. Notwithstanding anything contained herein to the contrary, there shall be no restriction upon any Owner's right of ingress and egress to or from such Owner's Unit, which right shall be perpetual and appurtenant to the ownership of such Owner's Unit.~~

~~4.10 Borrowing Power. The Association may borrow money in such amounts as are approved by the Unit Owners, subject to the procedures set forth herein. In connection therewith, the Association may assign its right to future income, including the right to receive Assessments. The Board, after consulting with one or more lending institutions, shall submit to the Owners a borrowing plan containing the proposed amount, rates, terms, and security of the loan. The borrowing plan must be approved by the vote of Unit Owners holding more than fifty percent (50%) of the votes cast on the matter. The rates, terms, and security, and periods of time of the loan are subject to change pursuant to changes in available credit from the time the borrowing plan was obtained from the lending institution and when the borrowing plan was approved by the Owners. The amount borrowed, however, may not be an amount greater than approved by the Owners.~~

~~6. — Parking Spaces. The Board shall have full authority to establish, maintain, assign and manage the Parking Spaces for and on behalf of all Owners, and the use thereof shall be subject to such rules and regulations as may be imposed by the Board.~~

~~7. — Assessments.~~

~~7.1 — Preparation of Budget. 4.11 Additional Provisions in Articles, Bylaws and Rules of the Association. The Articles, Bylaws and Rules may contain any provision not inconsistent with the law or with this Declaration relating to the conduct of the affairs of the Association and rights and powers of its directors, officers, employees, agents and members.~~

## ARTICLE V ASSESSMENTS

5.1 Preparation of Budget.

~~7.1.1~~5.1.1 At least thirty (30) days before the beginning of each fiscal year of the Association, the Board of Directors shall prepare a proposed budget for the Association containing an estimate of the total amount of funds which is sufficient to pay all Common Expenses, including, but not limited to: (a) 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, including, but not necessarily limited to, the amounts set forth in any Reserve Study (defined in ~~Section 7.1.1~~Section 5.1.1 below); (b) the cost of wages, materials, insurance premiums, services, supplies and other expenses required for the administration, operation, maintenance and repair of the Condominium; (c) the amount required to render to the Unit Owners all services required to be rendered by the Association under the Condominium Documents; and (d) 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. Prior to adoption, the proposed budget shall be submitted to the Members for review and comment. After giving the Members a reasonable opportunity to comment upon the proposed budget, and after considering any comments ~~actually~~ received by the Board from the Members, the Board of Directors is expressly authorized to adopt and amend the annual budget for the Association, and no ratification of any budget by the Unit Owners shall be required.

~~7.1.2~~5.1.2 After the annual budget is adopted by the Board for each fiscal year, the Board of Directors shall send to each Owner a summary of the budget and a statement of the amount of the Regular Assessment assessed against the Owner's Unit in accordance with ~~Section 7.2.5.2~~. 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 an Owner's obligation to pay his/her allocable share of the Common Expenses as provided in ~~Section 7.2.5.2~~, and each Owner shall continue to pay the Regular Assessment for his/her Unit as established for the previous fiscal year until notice of the Regular Assessment for the new fiscal year has been given to the Owners by the Board of Directors.

#### ~~7.2.5.2~~ Regular Assessment.

~~7.2.1~~5.2.1 For each fiscal year of the Association, and subject to the exemption set forth in ~~Section 7.2.6; 5.2.6~~, 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 this Declaration) shall be assessed against each Unit in proportion to the Unit's Common Expense Liability as set forth in ~~Section 3.4.2.6~~. The amount of the Regular Assessment assessed pursuant to this ~~Section 7.2.1~~Section 5.2.1 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 Regular Assessment for that fiscal year and the revised Regular Assessment shall commence on the date designated by the Board of Directors.

~~7.2.2~~5.2.2 The Board of Directors may require that the Regular Assessments or Special Assessments be paid in installments.

~~7.2.3~~ ~~Except as otherwise expressly provided for in this Declaration, all Common Expenses~~5.2.3 Any Common Expense or portion of a Common Expense

benefitting fewer than all of the Units, including, but not limited to, Common Expenses associated with the maintenance, repair and replacement of a Limited Common Element; shall be assessed and allocated against ~~all of the Units in accordance with Section 7.2.1.~~ the Units benefitted in proportion to each Unit's benefit as determined by the Board.

7.2.45.2.4 If any Common Expense is caused by the misconduct of any Owner, the Association shall assess that Common Expense exclusively against such Owner's Unit as an Enforcement Assessment. 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 each Unit's respective Common Expense Liability.

7.2.55.2.5 All Assessments, monetary penalties and other fees and charges levied against a Unit shall be the personal obligation of the Owner of the Unit at the time the Assessments, monetary penalties or other fees and charges became due. The personal obligation of an Owner for Assessments, monetary penalties and other fees and charges levied against his/her Unit shall not pass to the Owner's successors in title unless expressly assumed by them.

7.2.65.2.6 The Association shall be exempt from paying any Assessments allocable to any Tie Down Unit owned exclusively by the Association.

7.35.3 Special Assessments. The Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any ~~construction, reconstruction, repair or replacement of a capital improvement of the Common Elements, including fixtures and personal property related thereto,~~ Common Expense or for any other lawful Association purpose, provided that any Special Assessment (other than a Special Assessment levied pursuant to Section 10.48.1 as a result of the damage or destruction of all or part of the Common Elements) shall have first been approved by a Majority of Owners. 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 Owners.

7.45.4 Individual Expense Assessment. The Association may contract with various suppliers of goods or services to provide to the Owners and Occupants goods or services which the Association is not required to provide under the Condominium Documents. Any such contract may either provide that the Association shall pay for the cost and expense of the goods or services provided to the Owners or Occupants under the contract or that the cost and expense shall be billed directly to the Owner or Occupant receiving such goods or services. Any such costs and expenses paid by the Association shall be assessed as an Individual Expense Assessment to the Unit receiving such goods or services.

7.55.5 User Fee Assessments. The Association may levy a User Fee Assessment against any Unit Owner for the purposes described in Section 1.42.

7.65.6 Enforcement Assessment. The Association may assess against a Unit Owner as an Enforcement Assessment any of the following expenses: (a) any Collection Costs incurred by the Association in attempting to collect Individual Expense or User Fee Assessments or other amounts payable to the Association by the Owner; (b) any attorneys' fees (whether or not a lawsuit is filed) incurred by the Association with respect to any violation of the Condominium Documents by the Owner or the Owner's Occupants or invitees; ~~(c) any monetary penalties levied against a Unit~~



~~Owner, including, but not limited to, reasonable monetary penalties imposed by the Association upon Unit Owners for violations of the Condominium Documents; (d) damages, expenses and costs assessed by the Association against a Unit Owner pursuant to Sections 7.2.4, 12.1, 13.1 or 23, and interest, late fees, Collection Costs and other costs and charges incurred by the Association relative to such damages, expenses and costs; and (e) and (c)~~ any amounts (other than Regular Assessments, Special Assessments, Individual Assessments and User Fee Assessments) which become due and payable to the Association by the Owner or the Owner's Occupants or invitees pursuant to the Condominium Documents.

~~7.7~~5.7 Purposes for which Association's Funds May be Used. The Association may use the funds and property collected and received by the Association (including, but not limited to, all Assessments, fees, loan proceeds, surplus funds and all funds and property received from any other source) for the purpose of: (a) discharging and performing the Association's duties and obligations under the Condominium Documents or applicable law; (b) exercising the rights and powers granted to the Association by the Condominium Documents or applicable law; (c) providing or promoting activities and services the Board of Directors deems appropriate, necessary or desirable to foster or promote the common good and general welfare of the Condominium and the Owners and Occupants; (d) contracting for services to be provided to Owners and Occupants; and (e) taking such other action as the Board of Directors deems necessary, appropriate or desirable for the management and administration of the Association or the benefit of the Association or the Condominium.

~~7.8~~5.8 Effect of Nonpayment of Assessments; Remedies of the Association.

~~7.8.1~~5.8.1 Any Assessment, or any installment of an Assessment, which is not paid within thirty (30) 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. Until the Board of Directors establishes a rate, the default rate of interest shall be twelve percent (12%) per annum. If any Assessment, or any installment thereof, is not paid within thirty (30) days after the Assessment first became due, 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, which shall not exceed the amount prescribed under the Act.

~~7.8.2~~5.8.2 All Regular and Special Assessments, and all interest, late fees, Collection Costs and other fees and charges imposed or levied against any Unit or Unit Owner relative to such Assessments shall be secured by the Assessment Lien as provided for in the 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~~ and/or other fees or charges imposed or levied against a Unit or the Unit Owner which are secured by the Assessment Lien.

~~7.8.3~~5.8.3 The Assessment Lien shall have priority over all liens, other interests and encumbrances except for: (a) ~~liens and encumbrances Recorded before the recording of the 1986 Declaration;~~ (b) liens for real estate taxes and other governmental assessments and charges; and (c) the lien of any First Mortgage. Any First Mortgagee or any other Person 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 and charges against the Unit which became payable prior to the acquisition of such Unit by the First Mortgagee or other Person. Any Assessments and charges against the Unit which accrue prior to such sale or transfer shall remain the obligation of the defaulting Unit Owner.

~~7.8.4~~5.8.4 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 the 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. The proceeds of any rental or sale, after satisfaction of any lien of a First Mortgage or government lien with priority over the Assessment Lien, shall be applied in accordance with the Act and any balance remaining after such application shall be held by the Association for the payment of any future assessments or other charges. Upon the confirmation of the sale, the purchaser of such Unit shall be entitled to a deed to the Unit and to immediate possession of the Unit and may apply to the court for writ of possession for the purpose of acquiring such possession. The purchaser at any such sale shall take the Unit sold subject to all of the covenants, conditions and restrictions contained in this Declaration.

~~7.8.5~~ The enforcement of any Assessment Lien shall be subject to the limitations set forth in this Section 7.8 and A.R.S. § 33-1256.

~~7.8.6~~ The Association shall have a lien for any Individual Expense Assessment, User Fee Assessment or Enforcement Assessment, and for interest, late fees, Collection Costs and other fees and charges incurred or imposed by the Association relative to such Assessments, only after the Association obtains a judgment and submits that judgment for Recording; provided that the Association's lien for Individual Expense Assessments, User Fee Assessments and Enforcement Assessments, and for interest, late fees, Collection Costs and other fees and charges incurred or imposed by the Association relative to such Assessments may not be foreclosed and is effective only on conveyance of an interest in the Unit against which the lien attaches.

7.9~~5.9~~ Certificate of Payment. All payments received on account of a Unit Owner shall be applied by the Association in accordance with the provisions of A.R.S. § 33-1256(~~K~~L). The Association on written request shall furnish to a lienholder, escrow agent, Unit Owner or person designated by a Unit Owner a recordable statement setting forth the amount of unpaid Assessments against ~~his~~the Unit. The statement shall be furnished within ~~thirty~~ten (30) days after receipt of the request and is binding on the Association, the Board of Directors, and every Unit Owner if requested by an escrow agent licensed to do business in the State of Arizona. The Association may charge a reasonable fee in an amount established by the Board of Directors for each such statement.

7.10~~5.10~~ No Exemption or Offsets. No 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/her Unit. 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 Act.

~~7.44~~5.11            Reserves.

~~7.44.1~~5.11.1    Not less frequently than once every five (5) years, the Board of Directors shall perform a study of the amounts, if any, required to be set aside by the Association in reserve to pay for future capital repairs and replacements to the Common Elements (“Reserve Study”). The Reserve Study may be performed by the Board, an individual or committee appointed by the Board, or an independent agent experienced in the preparation of reserve studies hired by the Board. The Board shall have the discretion to postpone or defer the preparation of the Reserve Study, and the members of the Board of Directors shall not be liable if a Reserve Study is not prepared every five (5) years.

~~7.44.2~~5.11.2    The Board of Directors may establish reserves for the future periodic maintenance, repair or replacement of the major components of the Common Elements which the Association is obligated to maintain, repair and replace. All amounts designated as reserves, if any, shall be deposited by the Board of Directors in a separate bank account (the "Reserve Account") to be held for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Withdrawal of funds from the Association's Reserve Account shall require the signatures of two members of the Board of Directors.

~~7.44.3~~5.11.3    Unless the Association is exempt from federal or state taxes, all reserves shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulation of the Internal Revenue Service that will prevent such funds from being taxed as income of the Association.

**ARTICLE VI**  
**MAINTENANCE**

~~8. Mortgages. Each Owner shall have the right, subject to the provisions hereof, to encumber his Unit with a Mortgage. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage, other lien or security interest, which encumbers or purports to encumber any portion of the Condominium other than such Owner's Unit, and the interest in the Common Elements appurtenant to such Unit.~~6.1 Maintenance By Owners. Each Owner shall furnish and be responsible for, at his/her own expense, all of the maintenance, repairs and replacements within his/her own Unit. Each Owner shall also be responsible for maintenance, repair and replacement of all Limited Common Elements allocated to his/her Unit, except to the extent the Association chooses to perform any maintenance of such Limited Common Elements. Such Limited Common Elements include, but are not limited to, the sliding hangar door and all drive motors, seals, latches, locking devices and all other equipment related to the hangar doors, and any portion of any air conditioning, electrical, plumbing and heating systems and lines which exclusively serve his/her Unit. Each Owner shall keep his/her Unit in a safe, neat, clean and attractive condition.

6.2 By Association. The Association shall maintain, repair and replace all of the Common Elements except for the Limited Common Elements allocated to a Unit. The Association shall have the right and option, but not the obligation, to maintain, repair, and replace portions of the Limited Common Elements, including the exterior painted surface of each sliding hangar door and other doors providing access to each Unit but located exterior to such Unit and all parking spaces. The expense of maintenance, repair and replacement of such Limited Common Elements may, at the discretion of the Board, be separately assessed against the Units to which such Limited Common Elements are allocated. The Board shall be the sole judge as to the appropriate maintenance, repair and replacement of all Common Elements and Limited Common Elements. No 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 or any components of the Limited Common Elements which the Association elects to maintain, repair or replace.

~~9. — Insurance Requirements Generally. The Association shall obtain and maintain in full force and effect certain casualty, liability and other insurance as hereinafter provided. All such insurance shall be obtained from responsible companies duly authorized to transact insurance business in the State of Arizona with no less than a Class A financial category rating in Best's Key Rating Guide (or any comparable rating in any comparable publication). All such insurance shall name the Association or its authorized representative or trustee as the insured, in its individual capacity for the benefit of the Owners and also either as attorney in fact or trustee for all Owners. The Board shall review all such insurance at least annually and shall increase the amounts thereof as it deems necessary or appropriate. All such insurance shall:~~ 6.3 Association Easement for Maintenance, Repairs, and Replacements. An authorized representative of the Board, or of the manager or managing agent of the Condominium, and all contractors and repairmen employed or engaged by the Board or such manager or managing agent, shall be entitled to access at any time to each of the Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements.

~~————— (a) ——— Contain a special condominium endorsement providing for a waiver of subrogation, if obtainable, by the insurer as to claims against the Association, its directors, officers, employees, agents and invitees, and against each Mortgagee of all or any part of the Condominium or of any Unit, and any other person for whom the Association, if applicable;~~

~~————— (b) ——— Provide that any “not other insurance” clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee of all or any part of the Condominium or any Unit and that the insurance policy shall not be brought into contribution with insurance maintained by the Owner or Mortgagee of all or any part of the Condominium or any unit;~~

~~————— (c) ——— Contain a standard “without contribution mortgage” clause endorsement in favor of the Mortgagee, its successors and assigns, of any Unit or all or any part of the Condominium;~~

~~————— (d) ——— Contain an “agreed amount” and “inflation guard” endorsement, if available;~~

~~\_\_\_\_\_ (e) Provide that the policy of insurance shall not be terminated, canceled or reduced in coverage with at least thirty (30) days prior written notice to the Association and to each Owner and to each Mortgagee covered by any standard mortgage clause endorsement;~~

~~\_\_\_\_\_ (f) Provide that the insurer shall not have the option to restore the premises if condominium ownership of the Units and Common Elements is to be terminated or the Units and Common Elements are to be sold as an entirety **in accordance with Section 10 of this Declaration** if such coverage is obtainable; and~~

~~\_\_\_\_\_ (g) Contain a “severability of interest endorsement” which shall preclude the insurer from denying the claim of any Unit Owner or the Association due to the unintentional acts of the Association or any Owner(s).~~

~~\_\_\_\_\_ Under no circumstance shall any policies of insurance be obtained where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, any Unit Owner or any Mortgagee; or (ii) under the terms of the insurance carrier's charter, bylaws or policy, loss payments are contingent upon action by the insurance carrier's board of directors, policy holders or members; or (iii) the policy includes any special limiting clauses (other than insurance conditions, limitations and exclusions) which could prevent any Unit Owner or any Mortgagee from collecting insurance proceeds:~~

6.4 Owner's Failure to Maintain. If an Owner fails to maintain in good condition and repair its Unit or any Limited Common Element which it is obligated to maintain under this Declaration and the required maintenance, repair or replacement is not performed after the Association has given the Owner written notice and a reasonable time frame (as determined by the Board) to perform the maintenance, 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 as an Enforcement Assessment.

~~\_\_\_\_\_ Such public liability and property damage insurance may provide for coverage of any cross liability claims of Owners against the Association or other Owners and of the Association against Owners without right of subrogation. Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice.~~

6.5 Need for Maintenance Necessitated by Owner. If, due to the willful or negligent act or inaction of an Owner or a member of his/her family or guest, Occupant or visitor of such Owner, or other person for whom such Owner may be responsible, damage shall be caused to the Common Elements or to a Unit or Units owned by others or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Owner shall pay for such damage and for such maintenance, repairs, or replacements as may be determined by the Board as an Enforcement Assessment.

~~\_\_\_\_\_ Certificates of insurance coverage or copies of insurance policies shall be issued to and at the expense of each Owner and each Mortgagee who makes or on whose behalf written request is made to the Association for any such certificate or copy.~~

~~\_\_\_\_\_ The cost and expense of all insurance obtained by the Association, except **insurance covering additions, alterations or improvements made to a Unit by an Owner or other insurance**~~

obtained at the request of and specifically benefitting any particular Owner shall be a Common Expense.

## ARTICLE VII INSURANCE

~~9.1~~ 7.1 Casualty Insurance. The Association shall obtain and maintain a master policy or policies of casualty insurance covering the Common Elements and each Building, exclusive of the personal property, aircraft, related parts and accessories and tools contained therein, and all fixtures and building service equipment to the extent such is a part of the Common Elements insuring against loss or damage by fire and such other hazards as are covered under standard extended coverage policies, for not less than one hundred percent (100%) of the replacement cost of the Common Elements and each Building (exclusive of the land, foundations, excavations and other items normally excluded from coverage), as determined on ~~an annual~~ a periodic basis by ~~an appraisal made in accordance with the rules and regulations of the Board of Underwriters or like board or body recognized and accepted by the Board,~~ the insurance company or companies issuing such insurance ~~and, or an agent appointed by the Board.~~ The Association shall also obtain a National Flood Insurance Association Standard Flood Insurance Policy covering the Common Elements, unless such insurance is not reasonably available, or the Association determines that the Condominium is not located within a flood hazard area. Such master policy or policies of casualty insurance shall, to the extent available, contain a standard all risk endorsement and shall insure against all other perils which are customarily covered with respect to condominium projects which are similar in construction, location and use.

~~9.2~~ 7.2 Public Liability and Property Damage Insurance. The Association shall obtain and maintain comprehensive public liability and property damage insurance covering liability for bodily injury, including death, and liability for property damage occurring in, upon or around the Common Elements. Each ~~owner~~ Owner and the Association shall be insured with respect to such liability arising out of the ownership, maintenance, repair or operation of the ~~Units and~~ Common Elements. The limits of liability for such coverage shall not be less than \$5,000,000 for each occurrence with respect to bodily injury, death or property damage.

~~9.3~~ ~~Workmen~~ 7.3 Worker's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain ~~workmen~~ worker's compensation and employer's liability insurance as may be necessary to comply with applicable law.

~~9.4~~ 7.4 Fidelity Insurance or Bonds. The Association shall obtain and maintain insurance or bonds covering all persons or entities which handle funds of the Association, including without limitation professional manager employed by the Association and any of such professional manager's employees, in amounts not less than the maximum funds that will at any time be in the possession of the Association or any professional manager employed by the Association but, in no event less than the total of (i) assessments for a three (3) month period with respect to all Units; plus (ii) all reserve funds maintained by the Association. With the exception of a fidelity insurance or bond obtained by a professional manager covering such professional manager's employees, all fidelity insurance or bonds shall name the Association as an obligee. In addition, all such insurance or bonds shall provide that the same shall not be terminated, canceled or substantially modified with at least thirty (30) days prior written notice to the Association and all first Mortgagees.

9.57.5 Insurance by Owners. Each Owner shall be free to obtain such additional or other insurance as he deems desirable, including insurance covering his/her Unit, the personal property within the Unit, including by way of illustration, but not of limitation, his/her aircraft, tools, parts and related accessories, any additions, alterations and improvements he may have made to his/her Unit, and covering personal liability of himself and his/her employees, agents and invitees and any other persons for whom such Owner may be responsible. Any insurance policy obtained by an Owner must not diminish or adversely affect or invalidate any insurance of insurance recovery under policies carried by the Association and must, to the extent possible, contain a waiver of the rights of subrogating by the insurer as to any claim against the Association, its officers, directors, agents and employees and against other owners and their employees, agents and invitees and against any Mortgagee of all or any part of the Condominium or any Unit or other person for which the Association or any such Owner or Mortgagee may be responsible.

~~9.6 — Receipt and Application of Insurance Proceeds. Except in a case where a Mortgagee or any other persons all have the legal right to receive insurance proceeds directly, all insurance proceeds and recoveries under policies maintained by the Association shall be paid to and received by an independent financial institution or title company selected by the Association authorized to act as escrow agent for the benefit of the Association, all Owners and all Mortgagees of any Unit or all or any part of the Condominium as their respective interest may appear. Subject to the rights of any Mortgagee, the Association shall have the right, acting alone, to adjust or settle any claim by it under any insurance maintained by it. Such funds shall be disbursed by said escrow agent in accordance with the following priorities, subject to such evidence of application as such escrow agent shall require, and shall be applied by the Association as follows: first, as expressly provided in Section 10.5 hereof; second, to the Owners or Persons whom the Association determines are legally or equitably entitled thereto; and third, the balance, if any, to the Owners in proportion to their respective Common Expense Liability. Notwithstanding any provision contained herein to the contrary, the rights of and lien priority of any First Mortgagee shall not be affected by any loss, damage or destruction and shall continue in any insurance proceeds payable with respect to the Unit subject to such Mortgage in accordance with the provisions of such Mortgage.~~ 9.77.6 Other Insurance by the Association. The Association shall also have the power and authority to obtain and maintain other and additional insurance coverage, including but not limited to casualty insurance covering personal property of the Association, fidelity bonds or insurance covering employees and agents of the Association and insurance indemnifying officers, directors, employees and agents of the Association.

~~10. — Destruction, Condemnation, Obsolescence, and Restoration or Sale of Condominium.~~ 7.7 Insurance Requirements Generally. All insurance maintained by the Association shall be obtained from responsible companies duly authorized to transact insurance business in the State of Arizona with no less than a Class A- financial category rating in Best's Key Rating Guide (or any comparable rating in any comparable publication). All such insurance shall name the Association or its authorized representative or trustee as the insured, in its individual capacity for the benefit of the Owners and also either as attorney-in-fact or trustee for all Owners. The Board shall review all such insurance at least annually and shall increase the amounts thereof as it deems necessary or appropriate. All such insurance shall:

(a) Contain a special condominium endorsement providing for a waiver of subrogation, if obtainable, by the insurer as to claims against the Association, its directors, officers,

employees, agents and invitees, and against each Mortgagee of all or any part of the Condominium or of any Unit, and any other person for whom the Association, if applicable;

(b) Provide that any “not other insurance” clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or Mortgagee of all or any part of the Condominium or any Unit and that the insurance policy shall not be brought into contribution with insurance maintained by the Owner or Mortgagee of all or any part of the Condominium or any unit;

(c) Contain a standard “without contribution mortgage” clause endorsement in favor of the Mortgagee, its successors and assigns, of any Unit or all or any part of the Condominium;

(d) Contain an “agreed amount” and “inflation guard” endorsement, if available;

(e) Provide that the policy of insurance shall not be terminated, canceled or reduced in coverage with at least thirty (30) days prior written notice to the Association and to each Owner and to each Mortgagee covered by any standard mortgage clause endorsement;

(f) Provide that the insurer shall not have the option to restore the premises if condominium ownership of the Units and Common Elements is to be terminated or the Units and Common Elements are to be sold as an entirety if such coverage is obtainable; and

(g) Contain a “severability of interest endorsement” which shall preclude the insurer from denying the claim of any Unit Owner or the Association due to the unintentional acts of the Association or any Owner(s).

Under no circumstance shall any policies of insurance be obtained where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, any Unit Owner or any Mortgagee; or (ii) under the terms of the insurance carrier's charter, bylaws or policy, loss payments are contingent upon action by the insurance carrier's board of directors, policy holders or members; or (iii) the policy includes any special limiting clauses (other than insurance conditions, limitations and exclusions) which could prevent any Unit Owner or any Mortgagee from collecting insurance proceeds.

Such public liability and property damage insurance may provide for coverage of any cross liability claims of Owners against the Association or other Owners and of the Association against Owners without right of subrogation. Any insurance policy may contain such deductible provisions as the Association deems consistent with good business practice.

Certificates of insurance coverage or copies of insurance policies shall be issued to and at the expense of each Owner and each Mortgagee who makes or on whose behalf written request is made to the Association for any such certificate or copy.

~~10.1 Definition. As used herein the following terms shall have the following definitions:~~



The cost and expense of all insurance obtained by the Association, except insurance obtained at the request of and specifically benefitting any particular Owner shall be a Common Expense.

~~(a) —“Substantial Destruction” shall exist whenever the Board determines that, as a result of any casualty, damage to or destruction of the Condominium or any part thereof, the excess of estimated costs of Restoration (as herein defined) over Available Funds (as herein defined) is fifty percent (50%) or more of the estimated Restored Value of the Condominium (as herein defined). “Partial Destruction” shall mean any other casualty, damage to or destruction of the Condominium or any part thereof.~~7.8 Receipt and Application 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 lienholders as their interests may appear, and the proceeds shall be disbursed and applied as provided for in A.R.S. § 33-1253.

~~(b) —“Substantial Condemnation” shall exist whenever the Board determines that a complete taking of the Condominium has occurred or that a taking of part of the Condominium by condemnation or eminent domain or by grant or conveyance in lieu of condemnation or eminent domain has occurred, and that the excess of the estimated costs of Restoration over available funds is fifty percent (50%) or more of the estimated Restored Value of the Condominium. “Partial Condemnation” shall mean any other such taking by eminent domain or by grant or conveyance in lieu of eminent domain.~~

## ARTICLE 8 DESTRUCTION OF IMPROVEMENTS

~~(c) —“Substantial Obsolescence” shall exist whenever there is a vote by eighty percent (80%) of the Unit Owners that the Condominium or any part thereof has reached an undesirable state of obsolescence or disrepair. “Partial Obsolescence” shall mean any state of obsolescence or disrepair which does not constitute Substantial Obsolescence.~~8.1 Automatic Reconstruction. Any portion of the Common Elements that is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Condominium is terminated, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) eighty percent (80%) of the Unit Owners, including every Unit Owner of a Unit allocated a Limited Common Element that 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 5.3 of this Declaration and a vote of the Unit Owners shall not be necessary for such Special Assessment.

~~(d) —“Restoration” in the case of any casualty, damage or destruction, shall mean restoration of the Condominium to a condition the same or substantially the same as the condition in which the Condominium existed prior to the casualty, damage or destruction; in the case of condemnation, “Restoration” shall mean restoration of the remaining portion of the Condominium to an attractive, sound and desirable condition; and, in the case of obsolescence, “Restoration” shall mean restoration of the Condominium to an attractive, sound and desirable condition.~~

~~\_\_\_\_\_ (e) “Restored Value of the Condominium” shall mean the value of the Condominium after Restoration as determined by the Board.~~

~~\_\_\_\_\_ (f) “Available Funds” shall mean any proceeds of insurance or condemnation awards or payments in lieu of condemnation received by the Association and any uncommitted reserves of the Association other than amounts derived through assessments or special assessments. Available Funds shall not include that portion of insurance proceeds or condemnation awards or payments in lieu of condemnation legally required to be paid to any party other than the Association, including a Mortgagee of all or any part of the Condominium or of any Unit, or that portion of any condemnation award or payment in lieu of condemnation or taking of that Owner's individual air space.~~

~~\_\_\_\_\_ 10.2 Restoration of the Condominium. Restoration of the Condominium shall be undertaken by the Association without a vote of the Owners in the event of Partial Destruction, Partial Condemnation or Partial Obsolescence and shall be undertaken in the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence unless eighty percent (80%) of the Unit Owners vote to terminate the Condominium established pursuant to this Declaration. Such restoration shall be performed substantially in accordance with this Declaration and the original plans and specifications for the Buildings, the Common Elements and the Units.~~

~~\_\_\_\_\_ 10.3 Sale of the Condominium. In the event of Substantial Destruction, Substantial Condemnation or Substantial Obsolescence and eighty percent (80%) of the Unit Owners vote to terminate the Condominium created pursuant to this Declaration, the Association shall cause a termination agreement and notice of intent to sell the Condominium to be prepared and recorded and the real estate shall be sold. Such termination agreement shall contain a ratification executed by eighty percent (80%) of the Unit Owners and the ratification of any applicable Mortgagee shall specify a date after which the agreement will be void unless it is recorded before that date, a statement that the real estate shall be sold and the minimum terms of the sale. In the event of such sale, condominium ownership under this Declaration shall terminate and the proceeds of sale and any insurance proceeds, condemnation awards or payments in lieu of condemnation shall be distributed by the Association pro rata to each Owner according to each Owner's respective Common Expense Liability. Such payment shall be made to Owners or, as to Units which are subject to a Mortgage of record at the time of such payment jointly to such Owner and such Mortgagee as their interests may appear.~~

~~\_\_\_\_\_ 10.4 Special Assessments for Restoration. Whenever Restoration is to be undertaken, the Association may levy collect assessments from each Owner in proportion to such Owner's Common Expense Liability, payable over such period as the Association may determine to cover the costs and expenses of Restoration to the extent not covered by the Available Funds.~~

~~\_\_\_\_\_ 10.5 Receipt and Application of Condemnation Funds. Except in a case where a Mortgagee or any other person shall have the legal right to receive condemnation awards or payments in lieu of condemnation or eminent domain directly, all compensation, damages or other proceeds constituting awards for condemnation or eminent domain or payments in lieu of condemnation or eminent domain shall be paid, or if received by the Association shall be turned over promptly in the identical form received without commingling with any asset or property of the Association, to an independent financial institution or title company selected by the Association~~

~~authorized to act as escrow agent for the benefit of the Association, all Owners and all Mortgagees of any Unit or all or any part of the Condominium as their respective interest may appear. The Association shall have the right, acting alone, to adjust or settle any condemnation award or payment in lieu of condemnation or eminent domain payable to it. Such funds shall be disbursed by said escrow agent in accordance with the following priorities, subject to such evidence of application as such escrow agent shall require. The amount thereof equitably allocable as compensation for the taking of or injury to the individual air space of a particular Unit or to improvements of an Owner therein shall be apportioned and paid to the Owner of such Unit or, as to Units which are subject to a Mortgage of record at the time of such payment, jointly to such Owner and such Mortgagee as their interests may appear. The balance of such funds shall be applied to costs and expenses of Restoration, if undertaken, and, to the extent not so applied, shall be allocated as follows: first, any portion of such funds allocable to the taking of or injury to the Common Elements shall be apportioned among all Owners according to each Owner's respective Common Expense Liability; secondly, any portion of such funds received or awarded for severance damages shall be apportioned among Owners of Units whose individual air space was not taken or injured according to the foregoing apportionment; thirdly, any portion of such funds received or awarded for consequential damages or for other purposes shall be apportioned as the Association determines to be equitable under the circumstances. The lien priority of any First Mortgagee shall not be disturbed by any condemnation proceeding and shall continue in the proceeds of any condemnation award attributable to the mortgaged Unit in accordance with the provisions of this section.~~

~~10.6 Reorganization in the Event of Condemnation. Subject to the provisions of A.R.S. §33-1206, in the event all or substantially all of the individual air space within a Unit is taken by condemnation or eminent domain, such Unit shall, upon payment of compensation as herein provided, cease to be a part of the Condominium, the Owner thereof shall cease to be a member of the Association, and the undivided interest in Common Elements appurtenant to that Unit shall become reallocated to each remaining Unit which undivided interest in and to the Common Elements shall be allocated in the manner set forth in Section 3.4 hereof. In the event the remaining portion of a Unit after condemnation or eminent domain is practically and lawfully occupiable by its Owner and continued use is permitted by this Declaration, the Unit, as altered by such taking, shall remain a part of the Condominium, and its Owner shall remain a member of the Association. In either such event, the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations. Any remnant of a Unit rendered practically or legally unoccupiable after part of a Unit is taken by condemnation or eminent domain shall become a Common Element.~~

~~11. Rights of Owners in any Redistribution. In the event that any Owner or Mortgagee is entitled to receive any distribution of money, property or other things from the Association for any reason, including without limitation the sale or other disposition of all or any part of the Common Elements or the cessation or termination for any reason of the Condominium created hereby, such distribution shall be according to the Owner's respective Common Expense Liability, except as specifically provided to the contrary in Sections 9.6 or 10.5 hereof.~~

~~12. Maintenance, Repairs and Replacements; Right of Access~~

~~8.2 Determination Not to Reconstruct Without Termination. If eighty percent (80%) of the Unit Owners (including every Unit Owner of a Unit allocated a Limited Common Element that 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 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.

~~12.1 — By Owners. Notwithstanding anything herein to the contrary, each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit, any Limited Common Element allocated to his Unit, including, without limitation, the sliding hangar door and all drive motors, seals, latches, locking devices and all other equipment related to the hangar doors, and any portion of any air conditioning, electrical, plumbing and heating systems and lines which exclusively serve his Unit; and each Owner shall keep his Unit in a neat, clean and attractive condition. If, due to the willful or negligent act of an Owner or a member of his family or guest, Occupant or visitor of such Owner, or other person for whom such Owner may be responsible, damage shall be caused to the Common Elements or to a Unit or Units owned by others or maintenance, repairs or replacements shall be required which would be otherwise be a Common Expense, then such Owner upon receipt of a statement from the Board shall pay for such damage and for such maintenance, repairs or replacements as may be determined by the Board. An authorized representative of the Board, or of the manager or managing agent of the Condominium, and all contractors and repairmen employed or engaged by the Board or such manager or managing agent, shall be entitled to access at any time to each of the Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or any equipment, facilities or fixtures affecting or serving other Units or the Common Elements.~~ 8.3

Distribution of Insurance Proceeds in the Event of Termination of the Condominium. Notwithstanding any provisions of this Article 8 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 Act in the event of a termination of the Condominium.

~~12.2 — By Association. The Association shall maintain, repair and replace all of the Common Elements and, at its option, portions of the Limited Common Elements, including the exterior painted surface of each sliding hangar door and other doors providing access to each Unit but located exterior to such Unit and all parking spaces. The expense of maintenance, repair and replacement of such Limited Common Elements may, at the discretion of the Board, be separately assessed against the Units to which such Limited Common Elements are allocated~~

8.4 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 or Limited 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 or Limited Common Elements. Any settlement made by the Association in good faith shall be binding upon all Unit Owners and First Mortgagees. 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 First Mortgagee or 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 8.2 and 8.3 of this Declaration, all insurance proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements or Limited 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 or Limited Common Elements have been completely repaired or restored or the Condominium is terminated.

~~13. — Alterations, Additions or Improvements.~~ 8.5 Destruction of Units. Repair of any damage to a Unit 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.

~~13.1 — By Owners. Notwithstanding anything contained in Section 17 hereof to the contrary, no alterations of any Common Elements or any additions or improvements thereto or any alterations, additions or improvements to the Limited Common Elements associated with any Unit shall be made by any Owner without the prior written approval of the Board. Any Owner may make non-structural alterations, additions or improvements within the interior of his Unit as permitted by law without the prior written approval of the Board, but such Owner shall be responsible for any damage to any other Units or the Common Elements which may result from such alteration, addition or improvement.~~

## ARTICLE 9 EMINENT DOMAIN

~~13.2 — By Association. There shall be no structural alterations or additions by the Association to any Building without the prior approval of a Majority of Owners given at a regular or special meeting of the Members. Unless otherwise determined at any such meeting, the cost of such alterations or additions shall be paid either from reserves maintained in the Reserve Account or by means of a Special Assessment.~~

9.1 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 that may not be practically or lawfully used for any purpose permitted by this Declaration, the award must compensate the Unit Owner for his/her 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 Condominium Act. Any remnant of a Unit remaining after part of a Unit is taken becomes a Common Element.

~~13.3 — Additional Hangar Units. Subject to the provisions of Section 13.2 above, the Association reserves the right to construct hangar Buildings (constituting Hangar Units) within the space described herein and depicted on the plat as the Tie Down Units.~~

9.2 Partial Taking of a Unit. Except as provided in Section 9.1, 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/her 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.

~~14. — Encroachments. If any portion of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portion of the Common Elements, or if any Unit or doorway providing ingress and egress thereto or therefrom shall actually encroach upon another Unit or doorway, as the Common Elements and the Units are shown on the Plat, whether such encroachment results from the initial construction or from subsequent repair, reconstruction, settlement or shifting, there shall be deemed to mutual easements in favor of the Owners of the Common Elements and the respective Unit Owners involved to the extent of such encroachment so long as the same shall exist; provided, however, that no such easement shall result from any alteration, addition or improvement made by an Owner without the prior written approval of the Board. The Association shall at all times have the right to maintain any Common Elements now existing or hereafter constructed, regardless of any encroachment now or hereafter existing of any such Common Elements upon any Unit.~~

9.3 Taking of Common Elements. If part of the Common Elements is 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 Element was allocated at the time of the acquisition.

9.4 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.

~~15. — Purchase of Unit by Association. Upon the consent or approval of a Majority of Owners at a general or special meeting of the Members or in such other manner as may be deemed by the Board to be necessary or expedient, the Board shall have the power and authority to bid for and purchase any Unit at a sale pursuant to a mortgage foreclosure, trustee's sale under a trust deed, or a foreclosure of any lien for assessments or other charges provided for in this Declaration, or at a sale pursuant to an order or direction of a court, or other involuntary sale, and the Board shall have the power and authority to finance such purchase of a Unit by Mortgage, Special Assessment or any other financing arrangement that the Board may deem necessary or expedient.~~ 9.5 Priority and Power of Attorney. Nothing contained in this Article shall entitle a Unit Owner to priority over any First Mortgagee under a lien encumbering his/her Unit as to any portion of any condemnation award allocated to such Unit. Each Unit Owner hereby appoints the Association as attorney-in-fact 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 or a Unit Owner.

~~16. — Use and Occupancy Restrictions:~~

## ARTICLE 10 USE AND OCCUPANCY RESTRICTIONS

~~16.1~~ 10.1 Permitted Use. No part of the Condominium shall be used for other than aircraft storage and repair purposes and the related common purposes for which the Condominium was designed, without the written consent of the Board in its sole and absolute discretion. If any proposed use conflicts with the terms of the Special Use Permit, the Owner shall be required, at his/her own expense, to first obtain approval by the Town for such use, and although Owner may

be successful in obtaining Town approval, the Board reserves the right to deny its consent for such use.

~~16.2~~ 10.2 Leases. Any Lease for any Unit shall be in writing, shall in all respects be subject to and in compliance with the provisions of the Condominium Documents and shall expressly provide that a violation of any such provisions shall be a default under such Lease, ~~and a copy of any such Lease shall be delivered to and approved by the Association in writing prior to.~~ A rental registration form adopted by the Board shall be completed by the Owner and delivered to the Board no later than the next business day after the commencement of the term of ~~such~~the Lease.

~~16.3~~ 10.3 Common Elements. The Common Elements shall be used only for access, ingress and egress to and from the respective Units by the Owners thereof, their agents, ~~servants~~employees, tenants, family members, licensees and invitees and for such other purposes as are incidental to the permitted use of the Units. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or interfered with by any Owner.

~~16.4~~ 10.4 Nuisance. No Owner shall keep or maintain anything or shall suffer any condition to exist in his/her Unit or cause any other condition on the Common Elements which impairs any easement or right of another Owner or otherwise impairs or interferes with the use and enjoyment by other Owners of their Units and the Common Elements. No pets shall be allowed to be boarded, housed or bred on any part of the Condominium. No loud music or other loud noises or vibrations originating from inside or outside a Unit shall be allowed if such music, noise or vibration 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 the Condominium without the prior written approval of the Board of Directors. No Unit Owner shall permit anything to be done or kept in or upon a Unit that will result in the cancellation or increase in premium, or reduction in coverage, of insurance maintained by any Unit Owner or the Association.

~~16.5~~ 10.5 Vehicles. No aircraft shall be left untended at any time on any portion of the Condominium unless such aircraft is securely tied down or parked within a designated parking area or hangar. If the Board determines that the parking or storage of any vehicle or trailer on the Condominium so as to be Visible From Neighboring Property is unsightly or detracts from the overall character of the Condominium, such determination shall be conclusive and final that the parking or storage of such vehicle is a nuisance, and said parking or storage that is Visible From Neighboring Property, upon notice by the Board to the owner or operator thereof, shall be prohibited within the Condominium.

~~16.6~~ 10.6 Structures. No structure of a temporary character shall be permitted on the Condominium, and no tent, shack, barn or trailer shall be permitted on the Condominium either temporarily or permanently, unless it is located thereon by or with the prior written consent of the Board.

~~16.7~~ 10.7 Signage. No sign of any nature whatsoever shall be displayed or placed on any Unit, ~~in any window~~ or on any part of the Common Elements ~~except signage identifying the Unit as established by the Declarant. No "For Sale" or "For Rent" signs of any nature whatsoever shall be permitted on any part of the Condominium, and no other signs or graphics shall be permitted on any of the Common Elements without prior written consent of the Board~~ displayed so

as to be Visible From Neighboring Property except signs as initially installed or subsequently approved by the Board and signs as may be required by legal proceedings or the prohibition of which is precluded by law.

~~16.8~~10.8 Lighting. Except as initially installed or subsequently approved by the Board, no spotlights, floodlights or other high intensity lighting shall be ~~place~~placed or utilized on the ground or upon any Building or structure which in any manner will allow light to be directed or reflected on the Common Elements or the runway. Any proposed lighting shall be subject to written approval of the Board.

~~16.9 — Antennas. No radio, television or other antennas of any kind or nature shall be placed or maintained upon any Unit or any other portion of the Condominium without the prior written approval of the Board.~~10.9 Antennas. Unless governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, no antenna or other device for the transmission or reception of television, internet or radio signals or any other form of electromagnetic radiation or any associated equipment (a “Device”) shall be erected, used or maintained in any Unit or Common Elements so as to be Visible From Neighboring Property, unless approved in writing by the Board of Directors. Any Device governed by 47 C.F.R. § 1.400 (Over-the-Air Reception Devices Rule), as amended, repealed, or recodified, shall only be mounted within the Unit or Limited Common Elements allocated to the Unit, shall comply with any applicable antenna installation rules of the Association, shall be mounted, to the extent reasonably possible, so as to not be Visible From Neighboring Property, and any visible antennas, masts, and wiring must be painted to match the color of the structure to which they are installed, provided the painting does not interfere with acceptable quality signal and does not void the manufacturer’s warranty. Failure by an Owner to comply with such guidelines, standards and procedures with respect to a Device shall be deemed a violation of this Declaration.

~~16.10~~10.10 Repair, Maintenance and Sanitation. Each Owner shall maintain and keep his/her Unit at all times in a safe, sound and sanitary condition free of noxious odors, unsafe conditions or incendiary items ~~and~~. Each Owner shall repair and correct any condition or refrain from any activity which the Board, in its sole and absolute discretion, deems unsafe, and/or which might interfere with the reasonable enjoyment by other Owners of their respective Units or of the Common Elements. No Owner shall place or permit any personal property, garbage, debris or refuse to be placed or to accumulate on any portion of the Common Elements adjacent to any Unit.

~~16.11~~10.11 Lawful Use. No unlawful, ~~immoral~~, improper, or offensive use shall be made of the Condominium or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Condominium or any portion thereof shall be the same (either the responsibility of the Owner or of the Association) as the responsibility for the maintenance and repair of the particular part of the Condominium affected. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

~~16.12~~10.12 Towing of Vehicles. The Board of Directors shall have the right to have any 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.



Any expense incurred by the Association in connection with the towing of any vehicle shall be paid to the Association upon demand by the owner of the vehicle.

~~16.13~~10.13 Environmental Matters.

~~16.13.1~~10.13.1 Definitions.

(a) The term “Hazardous Substance” means any substance that is at any pertinent time defined or listed in, or otherwise classified, designated, or regulated pursuant to, any Environmental Law as a hazardous substance, hazardous material, extremely hazardous substance, hazardous waste, hazardous chemical, infectious waste, toxic substance, toxic pollutant or solid waste, or any other legislative or regulatory formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity or EP toxicity, including, without limitation, friable asbestos and polychlorinated biphenyls and also including oil and petroleum, petroleum products, by-products and wastes, and by-products associated with the extraction, refining, or use of petroleum or petroleum products, whether or not so defined, listed, classified, designated or regulated in “Environmental Laws.”

(b) The term “Environmental Laws” means any statute, law, act, ordinance, rule, regulation, order, decree, or ruling of any Federal, State and/or local governmental, quasi-governmental, administrative or judicial body, agency, board, commission or other authority relating to the protection of health and/or the environment or otherwise regulating and/or restricting the use, storage, disposal, treatment, handling, release, and/or transportation of Hazardous Substances, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act, The Resource Conservation and Recovery Act, The Federal Water Pollution Control Act, The Clean Air Act, The Hazardous Materials Transportation Act, The Toxic Substances Control Act, The Emergency Planning and Community Right To Know Act, and the Environmental Control Laws of the State of Arizona, each as now or hereafter amended, and all regulations and interpretive guidelines respectively promulgated thereunder.

(c) For purposes of this Section 16.13.10.13 and unless the context otherwise requires, the term “the Building” shall be limited in meaning to the Building in which the Unit in question is located.

~~16.13.2~~10.13.2 Environmental Covenants.

(a) Each Owner will not, and ~~it~~ will cause its Occupants to not, use, handle, generate, manufacture, produce, store, discharge, treat, remove, transport, or dispose of Hazardous Substances at, in, upon, under, to or from the Building or the Condominium except (i) in de minimis quantities necessary for or incidental to the improvement of any Unit and/or the Condominium, and the conduct of business at the Condominium, and/or (ii) in strict compliance with all Environmental Laws.

(b) Each Owner will, and will cause its Occupants to, immediately deliver to the Board complete copies of all notices, demands, or other communications received by such Owner or any Occupant from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any

way (i) alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity at the Building or at the Condominium which is or could be dangerous to life, limb, property, or the environment (including without limitation water or air quality), or (ii) releases or threatened releases in excess of reportable quantities of Hazardous Substances upon, under, at, in, or from the Building or the Condominium.

(c) Each Owner shall immediately advise the Board in writing (and orally in the event of a release or other emergency) of (i) any and all enforcement, clean-up, removal, and mitigation orders or other governmental, regulatory, or judicial acts or orders instituted, or threatened pursuant to any Environmental Law affecting the Building, the Condominium, Owner, or any Occupant; (ii) all claims made or threatened by any third party against the Building, the Condominium, Owner or Occupant (if and when actually known to Owner) relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any actual, proposed, or threatened use, handling, generation, manufacture, production, storage, release, discharge, treatment, removal, transportation, decontamination, cleanup, cleanup, disposal, and/or presence of any Hazardous Substance on, under, from, to, or about the Building or the Condominium; (iii) the discovery by Owner or any Occupant of any occurrence or condition at the Building, or the Condominium that could cause the Building or the Condominium to be the subject of a claim, order, or action under any Environmental Law, and/or (iv) the discovery by the Owner or any Occupant of any occurrence or condition which could subject the Building or the Condominium, Owner or any Occupant to any materially adverse effect on ownership, occupancy, transferability, marketability, or use of the Building or the Condominium under or as a consequence of any Environmental Law.

(d) Each Owner shall, and shall cause its Occupants to, at its sole cost and expense, observe, perform, and comply with all Environmental Laws applicable to the activities of Owner or such Occupant at the Building and the Condominium and all enforcement, cleanup, removal, and mitigation orders or other governmental, regulatory, or judicial acts or orders instituted pursuant to any Environmental Law affecting the Building and the Condominium, Owner or any Occupant which relate to or arise out of acts or failures to act on the part of such Owner or such Occupant, and shall, and shall cause any Occupant to, make all repairs and restorations to the Building or the Condominium required following the completion thereof.

(e) Each Owner shall obtain and maintain in full force and effect during the periods required by law each license, permit, or other governmental or quasi-governmental consent or approval relating to the use, handling, generation, manufacture, production, storage, release, discharge, treatment, removal, transportation, decontamination, cleanup, disposal, or presence of Hazardous Substances, (the “Environmental Permits”), and shall immediately notify the Association in writing of the actual or threatened termination or non-renewal of any of the Environmental Permits then required by law to be maintained by Owner.

(f) Each Owner will, and will cause its Occupants to, provide to the Board upon the Board's request copies of all (i) Material Safety Data Sheets with respect to Hazardous Substances known to such Owner to be present upon the Building or the Condominium, and (ii) Chemical Inventory Reporting Forms filed by such Owner pursuant to the Emergency Planning and Community Right To Know Act (“EPCRA”) or any state or local laws or ordinances enacted pursuant to or in furtherance of EPCRA.

(g) The Board will immediately deliver to each Owner complete copies of all notices, demands, or other communications received by the Board from any governmental or quasi-governmental authority, or any insurance company or board of fire underwriters or like or similar entities, regarding in any way (i) alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity at the Building or on the Condominium which is or could be dangerous to life, limb, property, or the environment (including without limitation water or air quality), or (ii) releases or threatened releases in excess of reportable quantities of Hazardous Substances upon, under, at, in, or from the Building or the Condominium.

(h) The Board shall immediately upon the Board receiving actual notice thereof advise each Owner in writing (and orally in the event of a release or other emergency) of (i) any and all enforcement, cleanup, removal, mitigation, or other governmental, regulatory, or judicial acts or orders instituted, contemplated, or threatened pursuant to any Environmental Law affecting the Building or the Condominium or any Occupant thereof; (ii) all claims made or threatened by any third party against the Building or the Condominium or any Occupant thereof relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any actual, proposed, or threatened use, handling, generation, manufacture, production, storage, release, discharge, treatment, removal, transportation, decontamination, cleanup, disposal, and/or presence of any Hazardous Substance on, under, from, to, or about the Building or the Condominium; (iii) the discovery by the Board of any occurrence or condition at the Building or the Condominium that could cause the Building or the Condominium to be the subject of a claim, order, or action under any Environmental Law, and/or (iv) the discovery by the Board of any occurrence or condition at the Building or the Condominium which could subject the Building or the Condominium, Owner, or any Occupant to any material adverse effect on ownership, occupancy, transferability, marketability, or use of the Building or the Condominium under or as a consequence of any Environmental Law.

(i) The Board shall, at its sole cost and expense, observe, perform, and comply with all Environmental Laws applicable to the activities of the Association and all enforcement, clean-up, removal, and mitigation orders or other governmental, regulatory, or judicial acts or orders instituted pursuant to any Environmental Law affecting any Building, Owner or any Occupant which relate to or arise out of acts or failures to act on the part of the Board, and shall make all repairs and restorations to any Building required following the completion thereof.

~~46.14~~10.14 Flammable Material. Owners and Occupants shall not permit or keep in their Unit, except in minor quantities approved in writing by the Board after written notification from the applicable Owner, any flammable, combustible or explosive material, chemical or substance in a manner, which may, by virtue of the type of material or quantity kept, increase the insurance rate or make insurance on a Building or Condominium unobtainable or unenforceable. All such substances shall be kept in containers or other receptacles as directed by the applicable Fire Department, insurance agency, or other governmental authority. Further, no toxic materials of any kind in quantities exceeding that allowable by law shall be stored or kept in or on any Unit, or any portion thereof. All such material shall be kept on the Condominium in strict accordance with all applicable laws, statutes, rules, ordinances and regulations.

~~46.15~~10.15 Compliance with Rules and Special Use Permit. Without limitation to the foregoing, each Owner shall strictly comply, and shall cause his/her tenants, Occupants, guests,

invitees, employees and contractors to strictly comply, with the use and airport operation restrictions contained in the Rules and the Special Use Permit, as amended from time to time, including without limitation the prohibition on commercial usage. The failure of an Owner to comply with the obligations set forth in this Section ~~16.15~~10.15 shall constitute a material breach of this Declaration.

~~16.16~~10.16 Additional Restrictions. The Association may modify the foregoing restrictions or otherwise restrict and regulate the use and occupancy of the Condominium by reasonable rules and regulations of general application adopted by the Board from time to time.

## ARTICLE 11 ALTERATIONS, ADDITIONS AND IMPROVEMENTS

~~17.11.1~~11.1 By Owners. Notwithstanding anything contained in Section 17 hereof to the contrary, no alterations of any Common Elements or any additions or improvements thereto or any alterations, additions or improvements to the Limited Common Elements associated with any Unit shall be made by any Owner without the prior written approval of the Board. Any Owner may make non-structural alterations, additions or improvements within the interior of his/her Unit that are not and will not be Visible From Neighboring Property without the prior written approval of the Board, but such Owner shall be responsible for any damage to any other Units or the Common Elements which may result from such alteration, addition or improvement, and the cost of such damage may be levied against the Unit as an Enforcement Assessment.

11.2 By Association. There shall be no structural alterations or additions by the Association to any Building without the prior approval of a Majority of Owners given at a regular or special meeting of the Members. Unless otherwise determined at any such meeting, the cost of such alterations or additions shall be paid either from reserves maintained in the Reserve Account or by means of a Special Assessment.

11.3 Additional Hangar Units. Subject to the provisions of Section 11.2 above, the Association reserves the right to construct hangar Buildings (constituting Hangar Units) within the space described herein and depicted on the plat as the Tie Down Units.

11.4 Architectural Control. No building, fence, wall, antenna (except those governed by Section 10.9 herein), tower, awning, ~~sign~~landscaping, or other structure of any kind or character shall be constructed, erected, placed, installed or maintained within the Condominium, nor shall any exterior addition, change or alteration be made thereto or therein, including without limitation to any building exterior or parking area, whether or not part of any Unit, which is ~~visible from any part of the Condominium~~Visible From Neighboring Property, and no additions to, changes in, or alterations of landscaping, grade or drainage shall be made until plans and specifications showing the nature, kind, color, shape, height, materials, location and other physical attributes of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board and by any architectural committee appointed by the Board. In the event the Board, or such committee, if one has been appointed, fails to approve or disapprove such proposal within ~~thirty (30)~~forty-five (45) days after proper plans and specifications have been received by it, ~~such approval will not be required, and this section will be deemed to have been fully complied with~~be deemed granted to the extent such plans and specifications are in compliance with this Declaration and any design guidelines adopted by the

Board. All such plans and specifications shall be delivered for submittal to the Board and committee at the Association's principal place of business.

## ARTICLE XII MISCELLANEOUS

~~18. [INTENTIONALLY OMITTED].~~

~~19. Entry by Board or its Agent. The Board or its authorized agents may enter any Unit at any time. If it becomes necessary to break into a Unit because no key or means of access was provided by the Occupant or Owner, the Association, its directors, officers and agents shall not be liable for any damage done to the Unit as a result of the exercise of this right of entry. The party exercising this right of entry shall see that reasonable measures are taken to secure the Unit until either the Occupant or Owner shall be notified that the Unit has been entered.~~

~~20. Roof Leaks and Repairs. The Association shall repair promptly all leaks or other damage to the roofs of any of the Buildings of which the Association has notice in writing; provided, however, that the cost of repairing leaks or damage due to the willful or negligent act of an Owner or a member of his family, guest, Occupant or visitor of such Owner or other person for whom such Owner may be responsible shall be the obligation of such Owner as an Individual Expense Assessment.~~ 21. 12.1 Public Dedication. Nothing contained in this Declaration shall be deemed to constitute a dedication for public use of to create rights in the general public. Nothing contained in the Declaration shall be construed as creating an obligation on the part of the Town of Carefree or any other governmental authority having jurisdiction over the Condominium to maintain, repair or replace any portion of the Condominium or the appurtenances thereto.

~~22. Copy of Declaration to New Owners. The Board shall give each new Owner of a Unit a copy of this Declaration and any and all amendments hereto within thirty (30) days notice of the conveyance of a Unit to such new Owner. However, the failure of the Board to provide such copy shall not relieve the new Owner from complying with this Declaration nor waive any of the rights, conditions or restrictions stated herein or create any liability on the part of the Association, the Board or their agents.~~ 23. 12.2 Enforcement and Remedies. In the event that any Owner shall fail to comply with the provisions of the Act, the Condominium Documents, the Special Use Permit, or other rules and regulations made by the Association or imposed by the Town, the Association shall have each and all of the rights and remedies provided for in the Act, the Condominium Documents, ~~or said rules and regulations,~~ or which may be available at law or in equity and may prosecute any action or other proceeding against such Owner for enforcement of such provisions or foreclosure of its lien and the appointment of a receiver for the Unit, or damages, or injunctive relief, or specific performance, or judgment for payment of money and collection thereof, or to sell the same as hereinafter provided, impose fines, suspend voting rights, exercise self-help, tow vehicles and/or equipment parked in violation of the Condominium Documents, or any combination of such remedies or any other relief which may be available at law or in equity, all without regard to the value of such Unit or the solvency of such Owner. ~~The proceeds of any rental or sale shall first be applied to discharge court costs, other litigation costs, including without limitation reasonable attorneys' fees, and all other expenses of the proceeding and sale. The remainder of such proceeds shall be applied first to the payment of any unpaid assessments or other charges and the satisfaction of any other damages, and any balance shall be held by the Association for the payment of any future assessments or other charges. Upon the confirmation of the sale, the~~

~~purchaser of such Unit shall be entitled to a deed to the Unit and to immediate possession of the Unit and may apply to the court for writ of possession for the purpose of acquiring such possession. The purchaser at any such sale shall take the Unit sold subject to all of the covenants, conditions and restrictions contained in this Declaration~~

12.2.1 In addition to the remedies otherwise provided herein, the Association may record against a Unit a written notice of a violation of 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 legal description of the Unit against which the notice is being recorded; (ii) a brief description of the nature of the violation; and (iii) 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.

12.2.2 In addition to the remedies granted to the Association pursuant to this ~~Section 23, 12.2~~, in the event that any Owner or the Association shall fail to comply with the provisions of the Act, the Condominium Documents, the Special Use Permit, or other rules and regulations made by the Association or imposed by the Town, any Owner shall have each and all of the rights and remedies provided for in the Act, the Condominium Documents, or said rules and regulations or which may be available at law or in equity and may prosecute any action or other proceeding against such Owner or the Association for the enforcement of such provisions, injunctive relief and/or specific performance, except no Owner may take action to enforce another Owner's obligation to pay Assessments or other amounts owed to the Association.

12.2.3 Notwithstanding any provision of this Declaration to the contrary, any breach of any of the covenants, conditions, restrictions, reservations and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien and/or rights of any Mortgagee except as herein expressly provided, each and all of such covenants, conditions, restrictions, reservations, and servitudes shall be binding upon and effective against any lessee under any Lease or against any Owner of any Unit whose title thereto is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

~~24.~~ 12.2.4 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 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.

12.3 Amendment. Except as otherwise provided in this Declaration, the provisions of this Declaration may be changed, modified or amended by ~~an instrument in writing setting forth such change, modifications or amendment, executed and acknowledged by~~ the written approval of Owners holding not less than seventy-five percent (75%) of the ~~Owners' votes in the Association.~~ Notwithstanding anything contained herein to the contrary, if the Act or the Condominium Documents require the consent or agreement of a specified percentage of the Owners and/or any other persons having any interest in the Condominium, including without limitation, the Association, for any such amendment or for any action specified in the Act or this Declaration, then any ~~instrument so amending~~ amendment to this Declaration or any provision hereof or providing for

such action shall be ~~signed~~approved by the Association and/or the Owners of not less than such specified percentage. Any ~~such change, modification or amendment accomplished under any of the provisions of~~amendment adopted by the Unit Owners pursuant to this ~~Section 24~~12.3 shall be ~~effective upon recording of the instrument providing therefor signed and acknowledged as provided herein signed by the President or Vice President of the Association and shall be recorded within thirty (30) days after the adoption of the amendment.~~

~~25~~12.4 Notices. Notices provided for in the Act or the Condominium Documents shall be in writing and shall be ~~mailed~~deemed to have been duly given and served if delivered personally or sent by United States mail, postage prepaid, if to the Association or the Board addressed to the address to which payments of assessments are then sent and if to an Owner addressed to the address of which Owner last notified the Board, or absent such notice, to the address showing on such Owner's recorded deed. The Association or the Board may designate a different address or addresses to which notices shall be sent from time to time by giving written notice of such change of address to all Owners. Any Owner may also designate a different address or addresses to which notices shall be sent by giving written notice of his/her change of address to the Association. 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 (3) days after the notice is mailed. A notice given by personal delivery shall be deemed effective upon receipt. ~~A notice given by facsimile shall be deemed effective upon the date of receipt shown on the printed facsimile transmittal.~~ If a Unit is owned by more than one person, notice to one of the Owners shall constitute notice to all Owners of the same Unit. Each Unit Owner shall file his/her correct mailing address with the Association; and shall promptly notify the Association in writing of any subsequent change of address. Upon written request to the Board, which written request specifies an address to which notices may be sent, any Mortgagee shall be given a copy of all notices permitted or required by this Declaration to be given to the Owner or Owners of the Unit subject to the Mortgage held by such Mortgagee.

~~26~~12.5 Severability. If any provision of this Declaration, the Articles, the Bylaws, the Rules, or other rules and regulations of the Association, or any section, clause, sentence, phrase or word, or the application thereof in any circumstance, is held invalid by a court of competent jurisdictions, the validity of the remainder of this Declaration, the Articles, the Bylaws, the Rules, or other rules and regulations of the Association, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstance shall not be affected thereby, and the remainder of this Declaration, the Articles, the Bylaws, the Rules, or other rules and regulations, shall remain in full force and effect as if such invalid part were never included therein, and such invalid part shall be promptly amended as herein provided or reformed by such court so as to implement the intent thereof to the maximum extent permitted by law.

~~27~~12.6 Perpetuities and Restraints on Alienation. ~~If any of, Per the easements, privileges, covenants, interests or rights created by this Declaration would otherwise be unlawful, void or voidable for violation of Act, the rule against perpetuities, then such shall continue in existence until twenty-one (21) years after the death of the survivor of the now living descendants of the United States Senator, Jon Kyle, or United States Senator, John McCain shall not be applied to defeat any provision of the condominium documents.~~

~~28~~12.7 Binding Effect; Rights and Obligations. Each ~~Purchaser~~Unit Owner, by the acceptance of a deed of conveyance, each ~~Purchaser~~Person under any agreement of sale for a Unit

within the meaning of A.R.S. §33-741, by execution of such agreement for sale and each Mortgagee by the acceptance of any instrument conveying any interest in the Condominium as security for the performance of an obligation, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land and equitable servitudes and shall be binding upon and shall inure to the benefit of any grantee, purchaser or any person having at any time any interest or estate in the Condominium in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument of transfer, and each such grantee shall be entitled to bring, and shall be subject to, an action for the recovery of damages, or for injunctive relief, or both, resulting from any breach of any such provisions.

~~29.~~12.8 Waiver. Any right or remedy provided for in this Declaration shall not be deemed to have been waived by any act or omission, including without limitation any acceptance of payment or partial performance or any forbearance, except by an instrument in writing specifying such right or remedy and executed by the person against whom enforcement of such waiver is sought.

~~30. — Utility Easement. Notwithstanding any other provisions hereof, there is hereby created a blanket non-exclusive easement upon, across, over and under the Condominium (other than the interior of the Units) and the Common Elements for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including by way of illustration, but not of limitation, water, sewer, gas, telephone, electricity, television cable and communication lines and systems. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Common Elements and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of the Buildings; provided, that no such utility and service line or system may be installed or relocated on the Common Elements except as initially planned and approved or as thereafter approved by the Board. This easement shall in no way affect any other previously recorded easements which affect the Condominium.~~ 31.12.9 Professional Management Agreement. Any agreement for professional management of the Condominium or any contract providing for services to be performed for the Association shall provide for termination by the Association with or without cause and without payment of a termination fee or penalty on thirty (30) days written notice, and no such contract or agreement shall be of a duration in excess of one (1) year, renewable by agreement of the parties for successive one (1) year periods.

~~32. — Ratification, Amendment and Replacement. From and after the recording of this Declaration, this Declaration (i) first, approves and ratifies the Amendments to the 1986 Declaration itemized in Recital B above and the amendments to the Plat itemized in Section 1.31 above; and (ii) second, amends, supersedes and replaces the Original Declaration in its entirety.~~12.10

Mortgages. Each Owner shall have the right, subject to the provisions hereof, to encumber his/her Unit with a Mortgage. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage, other lien or security interest, which encumbers or purports to encumber any portion of the Condominium other than such Owner's Unit, and the interest in the Common Elements appurtenant to such Unit.



12.11 Interpretation of Covenants. Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions of this Declaration shall be final, conclusive and binding as to all persons and property benefitted or bound by the provisions of this Declaration.

12.12 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.

12.13 Lessees and Invitees. Each Unit Owner shall be responsible for compliance by its Lessees, Invitees 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.

12.14 Attorneys' Fees. In addition to the Association's right to attorneys' fees elsewhere in this Declaration, in the event the Association incurs legal expenses and costs, including, but not limited to, attorney's fees, in bringing claims against Owners or defending claims brought by Owners in any type of action or proceeding, including but not limited to, proceedings in Superior Court, proceedings before an Administrative Law Judge, and any appeals therefrom, the Association shall be entitled to recover its attorney fees and costs from the Owner involved in the action or proceeding.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the undersigned officers of SkyRanch Aircraft Storage Condominium Association have executed this SkyRanch Aircraft Storage ~~Condominium~~Second Amended and Restated Condominium Declaration of Covenants, Conditions and Restrictions and attest that ~~Owners holding not less than 75% of the undivided interests in the Common Elements~~the required percentage of Owners have approved this Declaration.

SKYRANCH AIRCRAFT STORAGE  
CONDOMINIUM ASSOCIATION

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

Printed Name: ~~Bernard T. Robertson~~

\_\_\_\_\_

Its: President

ATTEST:

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

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

The foregoing instrument was acknowledged before me this ~~18~~\_\_\_\_ day of ~~November, 2009~~\_\_\_\_, 201\_\_\_\_, by ~~Samantha Gesell~~\_\_\_\_, President of SkyRanch Aircraft Storage Condominium Association, an Arizona nonprofit corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

Document comparison by Workshare 9.5 on Friday, April 5, 2019 11:06:27 PM

Input:	
Document 1 ID	file:///C:/Users/AnnErickson/Dropbox (KrupnikLaw)/Clio/SkyRanch Aircraft Storage/SkyRanch Aircraft Storage-Amended and Restated Declaration/Documents/Original.docx
Description	Original
Document 2 ID	file:///C:/Users/AnnErickson/Dropbox (KrupnikLaw)/Clio/SkyRanch Aircraft Storage/SkyRanch Aircraft Storage-Amended and Restated Declaration/Documents/CC&Rs, A&R mod AS 4-2-19.docx
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Rendering set	Standard

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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Deletions	270
Moved from	59
Moved to	59
Style change	0

Format changed	0
Total changes	721