

Upon recording, please return to:
Attention:
Bradley E. Wright, Esq.
80 E. Rio Salado Parkway, Suite 410
Tempe, Arizona 85281

Cross Reference: File No: 2005-1401136

**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
FOR
BRIDGEVIEW AT HAYDEN FERRY LAKESIDE, A CONDOMINIUM**

This Amended and Restated Declaration of Condominium for Bridgeview at Hayden Ferry Lakeside, A Condominium is made by BV at Hayden Ferry Lakeside, LLC, an Arizona limited liability company ("Declarant").

WITNESSETH

WHEREAS, that certain Declaration of Condominium for Bridgeview at Hayden Ferry Lakeside, A Condominium, was recorded on September 22, 2005, under File No. 2005-1401136, Official Records of Maricopa County, Arizona ("Original Declaration"); and

WHEREAS, pursuant to Paragraph 20(a) of the Original Declaration, the Original Declaration may be amended by the affirmative vote or agreement of Owners representing at least 67% of the total votes in the Bridgeview at Hayden Ferry Lakeside Condominium Association, Inc. ("Association"), the approval of the Hayden Ferry Lakeside Master Association, Inc. ("Master Association"), and the consent of Declarant; and

WHEREAS, Declarant, as the owner of all of the Units (as defined in the Original Declaration) and all property subject to the Original Declaration, represents 100% of the total votes in the Association; and

WHEREAS, Declarant desires to amend, restate, replace, and supersede the Original Declaration in its entirety, including all exhibits attached thereto; and

WHEREAS, the Master Association consents to and approves of the amendment, restatement, replacement, and superseding of the Original Declaration:

NOW THEREFORE, the Original Declaration is hereby amended, restated, replaced, and superseded in its entirety by and with the attached Amended and Restated Declaration of Condominium for Bridgeview at Hayden Ferry Lakeside, A Condominium:

Upon recording return to:

Attention:

Bradley E. Wright, Esq.
80 E. Rio Salado Parkway, Suite 410
Tempe, Arizona 85281

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DECLARATION OF CONDOMINIUM
FOR
BRIDGEVIEW AT HAYDEN FERRY LAKESIDE, A CONDOMINIUM**

**Hyatt & Stubblefield, P.C.
Peachtree Center South Tower
225 Peachtree Street NE, Suite 1200
Atlanta, Georgia 30303**

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**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
FOR
BRIDGEVIEW AT HAYDEN FERRY LAKESIDE, A CONDOMINIUM**

PREAMBLE

THIS AMENDED AND RESTATED DECLARATION is made this ____ day of _____, 20____, by BV at Hayden Ferry Lakeside, LLC, an Arizona limited liability company ("Declarant").

Declarant is the owner in fee simple of that property located in the City of Tempe, Maricopa County, Arizona, which is more particularly described on Exhibit "A" to this Declaration. By this Declaration, Declarant desires to submit such property to the provisions of the Arizona Condominium Act, Title 33, Chapter 9, Arizona Revised Statutes, as amended from time to time (the "Act").

Declarant does hereby submit the property described on Exhibit "A," together with all of the improvements located thereon, to the condominium form of ownership and to the provisions of the Act. From and after the date on which this Declaration is recorded in the Official Records of Maricopa County, Arizona, the property described on Exhibit "A" and all of the improvements located thereon, shall be owned, held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered, subject to all of the terms, provisions, and restrictions of this Declaration and of the Act.

Chaos is the law of nature; order is the dream of men. Henry Adams

1. Name.

The name of the Condominium is Bridgeview at Hayden Ferry Lakeside, A Condominium ("Bridgeview").

2. Location, Property Description, Plats, and Plans.

Bridgeview is located in the City of Tempe, Maricopa County, Arizona. The specific property which is submitted by this Declaration to the Act is described in Exhibit "A." A condominium plat of the property, including plans showing Unit boundaries, is recorded in the Official Records of Maricopa County as referenced in Exhibit "B."

3. Concepts and Definitions.

(a) *Defined Terms.* Generally, the terms used in the Condominium Documents, as defined below, shall have their common, generally accepted meanings unless otherwise specifically defined in this Declaration, the Act, the Articles of Incorporation, the By-Laws, or the Arizona Nonprofit Corporation Act. Unless the context otherwise requires, the following capitalized terms used in the Condominium Documents shall be defined as follows:

Act: The Arizona Condominium Act, Title 33, Chapter 9, Arizona Revised Statutes, as amended from time to time.

Allocated Interest: Each Unit's percentage of undivided interest in the Common Elements and percentage liability for Common Expenses. The Allocated Interests appurtenant to each Unit are set forth on Exhibit "C," attached hereto, and, by this reference, incorporated herein.

Articles of Incorporation or Articles: The Articles of Incorporation of Bridgeview at Hayden Ferry Lakeside Condominium Association,

Inc., which have been duly filed with the Arizona Corporation Commission, as may be amended from time to time.

Association: Bridgeview at Hayden Ferry Lakeside Condominium Association, Inc., an Arizona nonprofit corporation, and its successors and assigns as the corporate entity responsible for the operation of Bridgeview pursuant to this Declaration and the Act.

Board: The Association's board of directors and the body responsible for the general governance and administration of the Association.

Bridgeview: The real property described in Exhibit "A," which is submitted to the Act pursuant to this Declaration, including all improvements located thereon, and all easements and rights appurtenant thereto intended for use in connection with Bridgeview. Bridgeview includes the Units, the Common Elements, and the Limited Common Elements.

By-Laws: The By-Laws of Bridgeview at Hayden Ferry Lakeside Condominium Association, Inc., a copy of which is attached as Exhibit "D," as may be amended from time to time.

Common Elements: That area and property subject to this Declaration which is not included within the boundaries of the Units and any property specifically designated under the East Declaration as being for the exclusive use of Owners and occupants of Bridgeview Units. The Common Elements also shall include real property, if any, and personal property which the Association owns.

Common Expenses: The expenses which the Association incurs in exercising its powers and performing its responsibilities under the Condominium Documents, including allocations to reserve funds for such purposes and such other expenses as may be designated Common Ex-

penses pursuant to the Act and the Condominium Documents.

Common Maintenance Area. Those portions of a Unit for which the Association has primary maintenance responsibility under this Declaration, as more particularly described in Paragraphs 13 and 14(e).

Community-Wide Standard: The standard of conduct, maintenance, or other activity generally prevailing within Bridgeview, or the minimum standards established pursuant to the Master Declaration or the East Declaration, the architectural guidelines, restrictions and rules, and Board resolutions, whichever is the higher standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires of Bridgeview and the Owners change.

Condominium Documents: This Declaration, the Articles, the By-Laws, Association rules, and the Plat and Plans, as they each may be amended from time to time.

Declarant: BV at Hayden Ferry Lakeside, LLC, an Arizona limited liability company, or any successors, successor-in-titles, or assigns who succeed to any Special Declarant Rights and are designated as Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant. On all matters, Declarant may act through its affiliates.

Declarant Control Period: The period during which Declarant is entitled to appoint and remove the members of the Board and the Association's officers as more particularly described in Paragraph 17.

Declaration: This Declaration of Condominium for Bridgeview at Hayden Ferry Lakeside, A Condominium, as recorded in the Official Records of Maricopa County, Arizona, as may be amended from time to time.

Development Rights: Declarant's right under this Declaration and the Act to do any one or more of the following: (i) create easements, Units, Common Elements, or Limited Common Elements within Bridgeview; (ii) subdivide Units, convert Units into Common Elements, or convert Common Elements into Units; (iii) make Bridgeview part of a larger condominium or planned community; and (iv) amend the Declaration during the Declarant Control Period for the purposes set forth in Section 33-1202(14)(f) and (g) of the Act. Development Rights shall be assignable in the discretion of the Person having such right.

East Declaration: The Declaration of Covenants and Easements for Hayden Ferry Lakeside East, recorded in the Official Records of Maricopa County, Arizona, under File No. 2004-1017003, as may be amended from time to time.

General Assessments: Assessments levied on all Units subject to assessment to fund Common Expenses for the general benefit of all Units, as determined in accordance with Paragraph 10.

Hayden Ferry Lakeside: That certain mixed-use development located in the City of Tempe, Maricopa County, Arizona, known as Hayden Ferry Lakeside, which is governed by the Master Declaration, as may be expanded or reduced from time to time. Bridgeview is a part of Hayden Ferry Lakeside.

Joint Committee: The Hayden Ferry Lakeside East Joint Committee, Inc., an Arizona non-profit corporation, its successors and assigns.

Limited Common Elements: A portion of the Common Elements reserved for the exclusive or primary use of one or more, but less than all, Units, as described in Paragraph 5.

Master Association: The Hayden Ferry Lakeside Master Association, Inc., an Arizona nonprofit corporation, its successors and assigns.

Master Declaration: The Master Declaration of Covenants, Conditions, Restrictions, Development Standards and Easements for Hayden Ferry Lakeside, recorded in the Official Records of Maricopa County, Arizona, under File No. 2001-0818269, as may be amended from time to time.

Mortgage: Any institutional mortgage, deed to secure debt, deed of trust, or other transfer or conveyance of any interest in a Unit for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.

Mortgagee or Mortgage Holder: The holder of any Mortgage.

Owner: The record titleholder of a Unit, but not including any Mortgagee.

Person: Any individual, corporation, firm, limited liability company, trust, association, partnership, or other legal entity.

Plat and Plans: That certain survey and accompanying drawings prepared for Bridgeview which contain the information required by the provisions of Section 33-1219 of the Act and which are recorded in the Official Records of Maricopa County as identified on Exhibit "B." By this reference, the Plat and Plans are incorporated and made a part of this Declaration as if fully set forth herein.

Special Assessments: Assessments levied in accordance with Paragraph 10(b)(ii).

Special Declarant Rights: Those rights identified and reserved for the benefit of Declarant in Paragraph 17. Special Declarant Rights shall be assignable in the discretion of the Person having such right.

Specific Assessments: Assessments levied against one or more but less than all Units for expenses incurred or to be incurred by the Association, as described in Paragraph 10(b)(iii).

Unit: Any portion of Bridgeview intended for separate, individual ownership and use for residential occupancy, as described in Paragraph 4. Each Unit is depicted by its identifying number on the Plat and Plans and referred to accordingly on Exhibit "B."

(b) Interpretation of Certain References.

Consent or Approval: All references in the Condominium Documents to "consent" or "approval" shall refer to permission or approval that, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

Discretion and Determinations: All references in the Condominium Documents to "discretion" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act and, unless otherwise expressly limited in the Condominium Documents, a Person entitled to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction.

Notice: Unless otherwise specifically provided, all references in the Condominium Docu-

ments to "notice" shall refer to written notice by personal delivery, United States mail, or private carrier.

Notices shall be deemed to have been duly given and effective:

(i) if sent by United States mail, on the second day after being deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid; or

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient.

If to an Owner, notices shall be sent to the address of the Owner's Unit or such other address which the Owner has designated in writing and filed with the Board.

If to the Association, the Board, or the Association's managing agent, notices shall be sent to the principal office of the Association or such other address as the Board may designate in writing to the Owners.

If to Declarant, notices shall be sent to Declarant's principal place of business or such other address as Declarant designates by written notice to the Association.

Recording. All references in the Condominium Documents to a "recorded" legal instrument, or to "recordation" or the "recording" of a legal instrument, shall refer to an instrument filed, or the filing of a legal instrument, in the Official Records of Maricopa County, Arizona, or such other place designated as the official location for filing documents affecting title to real estate in Maricopa County in order to make them a matter of public record.

4. Units and Unit Boundaries.

(a) **General.** The Units are identified by identifying number on the Plats and Plans. Each Unit consists of the space within the boundaries of the Unit as described in Paragraph 4(b). Each Unit may be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Documents.

The ownership of each Unit shall include, and there shall pass with title to each Unit as an appurtenance thereto, whether or not separately described in the conveyance thereof, the Allocated Interest attributable to such Unit as described in Paragraph 7 and as specifically identified in Exhibit "C" to this Declaration, together with membership in the Association and an undivided interest in the funds and assets of the Association.

Each Owner is entitled to exclusive possession of such Owner's Unit (except for Common Maintenance Areas), together with an easement in and right to use the Common Elements (other than Limited Common Elements) in common with others. Each Owner shall also have an exclusive right to use any Limited Common Elements assigned to such Owner's Unit. Notwithstanding the above, the use of any Unit or any portion of the Common Elements, including the Limited Common Elements, is subject to this Declaration, the East Declaration, the Master Declaration, and any rules promulgated by the Association or the Joint Committee, as applicable.

(b) **Boundaries.** The Units are depicted on the Plat and Plans. Each Unit includes the air space and that part of the structure which lies within the following boundaries:

(i) Horizontal (Upper and Lower) Boundaries:

(A) The upper horizontal boundary of each Unit is the horizontal plane formed by the unfinished surface of the concrete, wallboard, or other material comprising the ceiling (including any dropped soffit areas) in the uppermost story of the Unit. Any decorative finish over such unfinished materials (*e.g.*, paint) shall be within the boundaries of the Unit.

(B) The lower horizontal boundary of each Unit is the horizontal plane formed by the uppermost surface of the concrete or other subflooring material forming the floor of the lowermost story of the Unit. Any decorative or finish flooring over such subflooring material shall be within the boundaries of the Unit.

The upper and lower horizontal boundaries of each Unit extend to their intersections with the Unit's vertical boundaries, as described below.

(ii) Vertical (Parametric or Lateral) Boundaries: The vertical boundaries of each Unit are:

(A) the vertical plane formed by the centerline of the airspace between any perimeter walls separating two adjacent Units;

(B) the vertical plane formed by the exterior surface (*i.e.*, the surface facing the corridor) of the unfinished plaster, wallboard, or other material comprising the Common Element corridor-side surface of any wall separating the Unit from a Common Element corridor immediately adjacent to the Unit; and

(C) the vertical plane formed by the outermost surface of any perimeter wall separating the Unit from the outdoors and also forming a part of the perimeter of the building containing the Unit.

Certain Units have structural pillars located fully or partially within the perimeter walls of the Unit. The wallboard, plaster, or other material enclosing the pillar shall be part of the Unit. All structural components of the pillar (*i.e.*, the structural column of the pillar contained within the material enclosing the pillar) shall be part of the Common Elements; provided, the square footage calculations for a Unit, as set forth in Exhibit "C," incorporate the enclosed portions of the pillar.

The vertical boundaries of the Unit shall extend to their intersections with each other and to their intersections with the upper and lower horizontal boundaries of the Unit, as described above.

Except where provisions of this Declaration otherwise specify, all air spaces, wall studs within the perimeter walls of the Unit, interior walls and partitions, floors separating different stories of the same Unit, and other fixtures and improvements within the foregoing boundaries are a part of the Unit. All lath, furring, wallboard, plasterboard, plaster, paneling, wallpaper, paint, and any other materials constituting any part of a Unit's walls shall be deemed to be within the boundaries of the Unit. All paint, hardwood, composite flooring, linoleum, carpet, tile, or any other material constituting part of the finished interior surfaces of a Unit's floors or ceilings shall be deemed to be within the boundaries of the Unit. All exterior windows (including window frames and exterior trim), exterior glass surfaces, and doors (including door frames) shall be deemed to be within the boundaries of the Unit.

Notwithstanding the description of the boundaries set forth above, the Units shall be deemed to include all portions of the mechanical, plumbing, heating, electrical, natural gas, and air conditioning systems (including furnaces, compressors, components, pipes, wires, conduits,

ducts, and the like) serving only that Unit, even if located outside the boundaries of the Unit. The Common Elements shall be deemed to include any portion of the mechanical, plumbing, heating, electrical, natural gas, and air conditioning systems (including furnaces, compressors, components, pipes, wires, conduits, ducts, and the like) serving more than one Unit, even if located within the boundaries of a Unit.

In interpreting deeds, plats, and floor plans, the physical boundaries of a Unit as defined in this Paragraph 4(b) and as originally constructed, or as reconstructed in substantial accordance with the original Plat and Plans, shall be conclusively presumed to be its boundaries regardless of minor variances between the actual boundaries and the boundaries shown on the Plat and Plans or described in a deed.

Each Owner acknowledges that certain areas contained within the Unit boundaries described above shall be "Common Maintenance Area," over which the Association shall have primary control and maintenance responsibility under Paragraph 13. Owners are precluded from altering or otherwise disturbing such Common Maintenance Area as provided in Paragraph 14(e), notwithstanding that such areas may lie within the Unit boundaries.

(c) *Easement of Support.* Every portion of a Unit contributing to the support of another Unit or the Common Elements shall be burdened with an easement of support for the benefit of such other Unit(s) and the Common Elements.

(d) *Subdivision of Units; Combining Units.* Except in the exercise of Declarant's Development Rights, the subdivision of a single Unit into two or more separate Units is prohibited.

If the same Owner owns two or more adjoining Units, the Owner may be permitted to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that the partition may, in whole or in part, be a Common Element. In combining two adjacent Units, an Owner may not materially weaken or remove any bearing wall or bearing column, and no portion of any Common Elements other than that partition may be damaged, destroyed, or endangered. Any chute, flue, duct, conduit, wire, pump, piping or other plumbing, or other apparatus contained in any impacted partition must be relocated by the Owner if it also serves any other part of Bridgeview.

For so long as Declarant or any affiliate of Declarant owns a Unit, Declarant's consent shall be required to combine two adjoining Units. Thereafter, the Board's consent shall be required.

The Owner of the affected Units shall pay all costs, including costs the Association incurs, in connection with combining the Units. Any Units so combined shall continue to be treated as separate Units for purposes of voting and liability for assessments.

(e) *Control of Common Maintenance Area.* The Association shall have an easement over the Units to maintain the Common Maintenance Area and to perform any other responsibilities as are assigned to the Association under the Condominium Documents and the Act. The Association, acting through the Board, may make and enforce reasonable rules regulating the use of the Common Maintenance Area.

5. Limited Common Elements; Assignment and Reassignment.

(a) The Limited Common Elements and the Unit(s) to which they are assigned are as follows:

(i) any balcony, porch, courtyard, or patio, including any wall or railing installed around the perimeter of such areas, designed to serve a single Unit, is assigned as the Limited Common Element of the Unit so served;

(ii) the portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit is assigned as a Limited Common Element of the Unit so served;

(iii) any gas or electric meter which serves only one Unit is assigned as a Limited Common Element of the Unit so served;

(iv) any mailbox designated by Declarant or the Board for use by the residents of a particular Unit is assigned as the Limited Common Element of the Unit so served;

(v) the elevator lobby, if any, on each floor containing Units, other than the first floor, which lobby provides direct access to one or more Units, is assigned as a Limited Common Element of the Unit(s) on such floor which are directly accessible from such elevator lobby; and

(vi) any parking space and any storage space assigned to a Unit in the manner set forth in subparagraph (b) below shall be the Limited Common Element of the Unit to which it is assigned.

(b) Further Assignment of Limited Common Elements. Declarant may amend this Declaration to assign or reassign Common Element parking spaces and storage spaces as the Limited Common Element of a Unit which Declarant designates. Declarant's right to assign or reassign Limited Common Elements pursuant to this subparagraph (b) shall continue until there are no parking spaces or storage spaces remaining to be assigned as Limited Common Elements or

until the expiration of the "Development and Sale Period" under the East Declaration, whichever first occurs.

In addition to the above, the Board may assign any previously unassigned parking space or storage space as the Limited Common Element of a particular Unit, without the need for a vote of the membership, upon (i) written application to the Association by the Unit Owner or Owners for whose exclusive use such Common Element is requested, (ii) approval by a majority of the total number of directors on the Board, and (iii) the written approval of Declarant, so long as Declarant has any rights to assign Limited Common Elements as set forth above. Upon such application and approval, the Association shall prepare, execute, and record an amendment to the Declaration assigning the Common Element as a Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. The Owner or Owners making such application shall pay all reasonable costs of preparing and recording the amendment. The amendment shall become effective upon recording.

(c) Reassignment of Limited Common Elements. Any Limited Common Element may be reassigned upon written application to the Association signed by the Owner(s) of the Unit(s) to which the Limited Common Element is assigned and the Owner(s) of the Unit(s) to which it is proposed to be reassigned (the "affected Owners"), and the approval of the Board. The affected Owners shall be responsible for paying all reasonable costs associated with preparation and recording of the amendment to accomplish such reassignment.

Within 45 days following its receipt of such application, if the Board approves such application, the Association shall prepare or cause to be prepared any amendments to this Declaration

that are necessary to reflect the reassignment of all rights and obligations with respect to the Limited Common Element involved. The affected Owners shall execute such amendment and, upon payment to the Association of all reasonable costs for the preparation and recordation thereof, the Association shall cause it to be recorded. The amendment shall become effective upon recording.

In addition to the above, the Board may relocate or reassign any previously assigned Limited Common Element if reasonably necessary to accommodate disabled persons, on a permanent or temporary basis, the construction of improvements within Bridgeview, the reconfiguration of the Common Elements, or for any other reason. Any such relocation or reassignment shall not require the approval of the affected Owner(s); provided, the Board shall use reasonable efforts to relocate or reassign a Limited Common Element to a reasonably comparable space within Bridgeview (e.g., the Board shall attempt to reassign an assigned parking space to another space on the same parking level). The relocation or reassignment of a Limited Common Element pursuant to this authority may result in the conversion of a portion of the Common Elements into a Limited Common Element without the approval of the membership.

(d) No Membership Approval. An amendment assigning or reassigning a Limited Common Element in the manner provided in this Paragraph 5 shall not require a vote under Paragraph 20.

6. Common Elements.

(a) Description. The Common Elements consist of all portions of Bridgeview not located within the boundaries of a Unit and those areas designated under the East Declaration as being for the exclusive use of Owners and occupants of

Units within Bridgeview, including the Limited Common Elements and such areas, items, improvements, or fixtures which are specifically identified in this Declaration or the Plat and Plans as Common Elements

(b) Use of the Common Elements. Each Owner and occupant of a Unit shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress, and egress to and from the Unit over those portions of Bridgeview designated for such purpose), subject to: (i) the rights of Owners to the exclusive use of Limited Common Elements assigned to their respective Units; (ii) the right and responsibility of the Association to maintain, operate, regulate, restrict, and control the use and enjoyment of the Common Elements as provided in the Condominium Documents and the Act, including the right of the Association to lease unassigned parking spaces in underground parking facilities and storage spaces after Declarant's right to assign Common Elements as Limited Common Elements has expired; (iii) the right of the Joint Committee to control the use and enjoyment of certain portions of the Common Elements, as provided in the East Declaration, including the right of the Joint Committee to control the use of and/or lease street level parking spaces and to designate parking spaces within Bridgeview as being for the exclusive use of the owners and occupants of other condominium units subject to the East Declaration; and (iv) the use rights of other condominium unit owners and the Joint Committee under the East Declaration. Each Owner's easement of use and enjoyment of the Common Elements shall be appurtenant to and shall pass with the title to his or her Unit.

The Common Elements may be used only for the purposes for which they are intended. No use of the Common Elements shall unreasonably interfere with or encroach upon the lawful rights

of the other Owners or the owners of other condominium units within "Hayden Ferry Lakeside East," in accordance with the East Declaration. As set forth in the East Declaration, portions of parking areas within Bridgeview may be designated by the Joint Committee for the exclusive use of owners and occupants of condominium units outside of Bridgeview.

(c) *Control of Common Elements.* The Association shall have an easement over the Common Elements, including the Limited Common Elements, to perform such maintenance and other responsibilities as are assigned to the Association under the Condominium Documents and the Act.

The Association, acting through the Board, may make and enforce reasonable rules regulating the use of the Common Elements, including the Limited Common Elements. In addition, the Association shall have the right to impose and receive payments, fees, or charges for the exclusive use or rental of any portion of the Common Elements (including Limited Common Elements), and to grant permits, licenses, and utility and other easements under, through, or over the Common Elements, as may be reasonably necessary to or desirable for the ongoing development, maintenance, and operation of Bridgeview or adjacent property.

As set forth in Paragraph 5, the Board may convert portions of the Common Elements into Limited Common Elements.

Without limiting the generality of the foregoing, and without assigning such areas as Limited Common Elements, and subject to Declarant's right to assign and reassign Limited Common Elements, the Association may provide for the exclusive use of designated Common Element parking spaces or storage spaces to any Owner or occupant of a Unit pursuant to negotiated terms

and conditions. The Association may make or permit alterations to parking spaces or storage spaces to accommodate exclusive use under a lease or other arrangement (*e.g.*, enclosing storage spaces).

In addition, the Association may charge an Owner for any costs the Association incurs as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests.

The Association's rights under this subparagraph (c) are subject to the Joint Committee's right, authority, and obligation to operate, maintain, control, and regulate portions of the Common Elements, as described in the East Declaration.

7. Allocated Interest in Common Elements.

Each Unit is assigned an Allocated Interest in the Common Elements based on the square footage of the Unit relative to the total square footage of all Units, as set forth in Exhibit "C." Ownership of the Common Elements shall be by the Owners as tenants-in-common or by the Association (subject to each Owner's right of use and enjoyment). The Allocated Interest of each Unit may be altered only by the consent of all Owners and Mortgagees (or such lesser number of Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Declaration, or by Declarant pursuant to the exercise of its Development Rights or any Special Declarant Right. Allocations and reallocations of the Allocated Interests may be subject to minor variations attributable to rounding off.

The Allocated Interest of each Owner in the Common Elements may not be separated from such Unit, and shall be deemed to be conveyed

or encumbered or to otherwise pass with the title to the Unit whether or not expressly mentioned or described in a deed or other conveyance instrument describing the Unit. Any conveyance, encumbrance, or other transfer (voluntarily or involuntarily) of a Unit's Allocated Interest in the Common Elements independent of the Unit to which it is allocated shall be void.

The Common Elements shall remain undivided and no Owner or any other Person shall bring any action for judicial partition or division of the Common Elements, except as may be provided in the Act.

8. Association Membership and Allocation of Votes.

There is an amazing strength in the expression of the will of a whole people. Alexis de Tocqueville

Each Owner, by virtue of ownership of a fee or undivided fee interest in any Unit, is a member of the Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Condominium Documents and the Act. Each Unit is allocated a vote weighted in accordance with the Unit's Allocated Interest, as described in Paragraph 7 and in Exhibit "C." Cumulative voting is permitted only for the purpose of electing directors to the Board.

9. Allocation of Liability for Common Expenses.

Except as otherwise specifically provided in this Declaration or the By-Laws, each Unit is allocated liability for Common Expenses in accordance with its Allocated Interest set forth on Exhibit "C."

10. Assessments and Assessment Lien.

(a) *Obligation for Assessments.* Each Owner, by accepting a deed or entering into a recorded contract of sale for a Unit, is deemed to covenant and agree to pay assessments as provided in this Paragraph 10. No Owner may exempt himself from liability for assessments for non-use of Common Elements, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of Declarant, the Association, or the Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action required of it.

Until the Association makes a Common Expense assessment, Declarant shall pay all Common Expenses. After the Association levies a Common Expense assessment, assessments shall be made at least annually, based on a budget adopted at least annually by the Association.

The Association is obligated under the Master Declaration and the East Declaration to pay assessments to the Master Association and the Joint Committee, respectively. The Association shall include amounts due to the Master Association and the Joint Committee as line items in the Association's annual Common Expense budget to be allocated among the Units in accordance with the Allocated Interests set forth on Exhibit "C;" provided, as set forth in the Master Declaration and the East Declaration, respectively, the Master Association and the Joint Committee each may assess the Association and the Owners for unanticipated, non-recurring charges or assessments which may not be included in the Association's Common Expense budget.

The Master Association and the Joint Committee are not subject to assessment by the Association under this Declaration.

(b) *Authority to Levy Assessments.* The Association shall be authorized to levy three types of assessments: General Assessments, Special Assessments, and Specific Assessments.

(i) *General Assessments.* Except as provided below or elsewhere in the Act or Condominium Documents, the Common Expenses shall be assessed as a General Assessment against all the Units in accordance with each Unit's Allocated Interest, as provided in Exhibit "C;" provided, any Common Expense or portion of a Common Expense benefiting fewer than all of the Units, as determined in the Board's discretion, and including expenses relating to the maintenance, repair, or replacement of the Limited Common Elements, may be assessed exclusively against the Units benefited.

Unless the Board otherwise determines in the exercise of its discretion, the Association's expenses relating to the maintenance, repair, and replacement of Limited Common Elements shall be a Common Expense allocated among all Units in accordance with each Unit's Allocated Interest. If the Board determines that its costs relating to the maintenance of any Limited Common Elements shall be assessed exclusively against those entitled to use or otherwise benefiting from the Limited Common Elements, such costs shall be shared among such Owners in the proportion that the Unit's respective Allocated Interests bear to each other.

(ii) *Special Assessments.* In addition to General Assessments, the Board may at any time levy a Special Assessment against all Units to cover unbudgeted expenses or expenses in excess of those budgeted; provided, prior to becoming effective, any Special Assessment shall be ap-

proved by the affirmative vote of Owners representing at least a majority of the total Association vote. Special Assessments shall be allocated among the Units in accordance with each Unit's Allocated Interest.

Any Special Assessment shall be set forth in a written notice and sent or delivered to each Owner. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose or purposes set forth in such notice. Any excess funds collected through Special Assessments shall be considered common surplus and may, in the Board's discretion, either be returned to the Owners or applied as a credit toward future assessments.

(iii) *Specific Assessments.* The Association shall have the power to levy Specific Assessments against one or more, but less than all, Owners to cover expenses the Association incurs which benefit such Owner(s), including costs incurred as a consequence of the conduct of such Owner(s) or the occupants of such Owner's Unit, his or her lessees, agents, contractors, employees, licensees, invitees, or guests. The Board shall give any Owner subject to a Specific Assessment prior written notice and an opportunity to be heard before levying any Specific Assessment. The Association also may levy Specific Assessments against a particular Owner to cover the costs of providing special services, if any, which may be offered by the Association to such Owner at the Owner's request.

(c) *Computation of Operating Budget and General Assessment.* At least 60 days prior to the beginning of the Association's fiscal year, the Board shall prepare a budget covering the estimated Common Expenses to be incurred during the coming year. The budget shall include as separate line items, as applicable, an amount to be placed in a reserve account for capital repairs and replacements in accordance

with a separate reserve budget adopted pursuant to Paragraph 10(d). The budget shall also take into account any surplus from prior years, to the extent not previously added to reserves or used for other permitted purposes, and any deficit from prior years. As provided in Paragraph 10(a), unanticipated, non-recurring assessments and other charges need not be included in the Common Expense Budget.

Within 30 days after adoption of any proposed budget for Bridgeview, the Board shall provide a summary of the budget to all Owners. During the Declarant Control Period, the Board is expressly authorized to adopt and amend budgets from time to time. After termination of the Declarant Control Period, the budget shall be subject to ratification by the Owners in accordance with the procedures set forth in this paragraph. If ratification is required, the Board shall set a date for a meeting of the Owners to consider ratification of the budget not fewer than 14 nor more than 30 days after mailing of the summary. The budget shall be ratified, whether or not a quorum is present, unless at that meeting Owners representing at least 67% of the total votes in the Association vote to reject the budget. If the proposed budget is rejected, the periodic budget last ratified by the Owners (or the budget for the last fiscal year, if no ratification was not previously required) shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

(d) Capital Budget and Reserve Contribution. The Board shall prepare, and thereafter review on an annual basis, a capital budget which shall take into account the number and nature of replaceable assets maintained by the Association as a Common Expense, the expected life of each asset, and the expected repair or replacement cost over the useful life of each asset. The Board shall establish an amount to be contributed on annual basis to reserve funds to per-

mit meeting the projected capital needs of the Association over the period of the budget. The capital contribution required, if any, shall be included within the budget and assessments as provided in Paragraph 10(c). A summary of the capital budget shall be distributed to each Owner in the same manner as the operating budget. So long as the Board exercises business judgment in determining the amount of the reserve contribution in any year, the amount shall be considered adequate.

(e) Personal Liability for Assessments. Each Owner shall be personally liable for all assessments which come due during such Owner's period of ownership, and shall be jointly and severally liable with any previous Owner for all unpaid assessments against the Unit which became due and payable prior to the transfer of title to the current Owner, without prejudice to any right the current Owner may have to recover such amounts from the previous Owner. However, the liability of a first Mortgagee, or its successors or assignees, who acquires title to a Unit by foreclosure of the Mortgage or deed in lieu of foreclosure for the unpaid assessments that became due prior to the Mortgagee's acquisition of title shall be limited to the Unit's unpaid Common Expenses and regular periodic assessments which accrued or came due during the six months immediately preceding such Mortgagee's acquisition of title.

The obligation to pay assessments shall commence as to all Units upon conveyance of the first Unit by Declarant to a purchaser other than a successor Declarant. Assessments shall be paid in such manner and on such dates as the Board may establish, except that the Board shall not require payment of the General Assessment in fewer than four installments, with one installment coming due each quarter. Special Assessments may, in the discretion of the Board, be payable in installments extending beyond the

fiscal year in which the Special Assessment is approved.

The obligation to pay assessments under this Paragraph is in addition to, and not in lieu of, the obligation to pay assessments levied in accordance with the Master Declaration and the East Declaration.

(f) *Delinquent Assessments.* In addition to any other rights the Association may have under the Act with respect to delinquent assessments and other charges, any assessment or charge, or installment thereof, not paid when due shall bear interest at the rate of 18% per year from the due date until paid. In addition, the Association may charge a late fee in an amount not to exceed the greater of \$25 or 5% of each assessment or installment thereof which is not paid when due. Any payment which the Association receives shall be applied as provided in Section 33-1256 of the Act, notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying the payment.

If assessments and other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than 15 days from the date due, the Board may accelerate and declare immediately due all of that Owner's unpaid installments of the assessment or other charge for the balance of the fiscal year. That Owner shall thereby lose the privilege of paying such assessment or other charge in installments for that fiscal year. Unpaid assessments and charges related thereto shall constitute a lien against the Unit in accordance with Paragraph 10(g).

(g) *Lien to Secure Assessments.* The Association shall have a lien against each Unit to secure payment of delinquent assessments and other charges, as well as interest, late charges, and reasonable costs of collection (including attorneys' fees). Such lien shall be superior to all

other liens, except liens and encumbrances specified in Section 33-1256(B) of the Act, any lien in favor of the Master Association under the Master Declaration, and any lien in favor of the Joint Committee under the East Declaration. Such lien may be enforced by suit, judgment, and judicial or non-judicial foreclosure. Such lien shall be effective from the due date of the assessment until all sums, with interest and other charges thereon, shall have been fully paid. The recording of this Declaration constitutes record notice and perfection of the lien and no further recordation of any claim of lien for assessment under this Paragraph is required.

The Association's lien may be enforced by the foreclosure in like manner as a deed of trust or mortgage on real property; provided, a lien for unpaid assessments shall be extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments become due. The Owner of the Unit being foreclosed shall be required to pay the Association the monthly assessment for the Unit during the period of foreclosure, and the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid on the Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey, and otherwise deal with the same.

A first Mortgagee who obtains title to a Unit pursuant to the remedies set forth in its First Mortgage shall take title to the Unit free and clear of all Common Expense assessments levied against the Unit prior to such transfer of title and free and clear of all liens created as a result of such assessment. Such Mortgagee shall, however, be responsible as an Owner for all assessments with respect to the Unit from the date title is acquired.

The Association also may bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. In either case, the Association shall be entitled to recover its reasonable costs and attorneys' fees incurred in any such action.

(h) Certification of Assessments Due. Within 15 days after receiving a written request therefor from any Owner, purchaser, or Mortgagee of a Unit, the Association shall provide a certificate signed by an officer or agent of the Association stating all assessments and other moneys owed to the Association with respect to the Unit.

(i) Assessments on Incomplete Units. At Declarant's election, the General Assessment levied against any Unit which has not been substantially completed shall be equal to 25% of the General Assessment which otherwise would be charged to such Unit in accordance with its Allocated Interest were construction of such Unit substantially completed. A Unit shall be considered substantially completed for assessment purposes at such time as a certificate of occupancy for the Unit is issued by the City of Tempe.

During the period that any such reduced assessment shall apply, Declarant shall pay to the Association any deficiency due to such reduced assessment amounts up to the amount necessary for the Association to be able to timely pay all Common Expenses.

Declarant shall receive a credit against assessments due from it in the amount of the fair market value of any services or materials which it contributes to reduce the Common Expenses which the Association would otherwise occur. If Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and Declarant cannot

agree as to the value of any contribution, Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three independent contractors approved by Declarant who are in the business of providing such services and materials. If the Association and Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

(j) Surplus Funds. Except as otherwise provided in this Declaration, any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of reserves shall be retained by the Association for disposition as determined by the Board, including the contribution to reserves, contribution to capital, or rollover for allocation to the succeeding year's budget.

(k) Use and Consumption Fees. The Association may offer services or facilities for which it does not recover its costs through assessments under this Paragraph. The Board may charge use and consumption fees to any Person who chooses to use such Association services or facilities or participate in Association-sponsored activities. The Board may determine the amount and method of determining such fees.

(l) Contribution to Working Capital Fund. Upon closing of the sale of each Unit to the first purchaser thereof other than a successor Declarant, a contribution shall be made by or on behalf of the purchaser to the Association's working capital fund in an amount equal to one-sixth of the annual General Assessment levied on the Unit for the fiscal year in which such closing occurs. At such time as the Owners are entitled to elect the entire Board, Declarant shall make such contribution for all Units which it still owns

and Declarant shall thereafter be reimbursed by the purchaser of each such Unit at the time of closing of the sale. Contributions to the working capital fund shall be in addition to, not in lieu of, other assessments levied by the Association, and shall not be considered advance payment of any assessment.

The Association shall maintain the working capital fund in a segregated account, and such funds may be used to meet unforeseen expenditures or to purchase any additional equipment or services which the Board may determine appropriate. Declarant may not use the working capital fund to defray any of its expenses, reserve contributions, or construction costs, nor to make up any budget deficits during the Declarant Control Period.

(m) Reserve Contribution. As an additional source for funding reserves, the Board shall collect a "Reserve Contribution" upon each transfer of title to a Unit other than exempt transfers described below. The Reserve Contribution shall be charged to the purchaser of the Unit, shall be payable to the Association at the closing of the transfer, and shall be secured by the Association's lien for assessments under Paragraph 10(g).

Unless increased as provided in this paragraph, the Reserve Contribution shall be 0.2% of the Unit's gross selling price. The gross selling price is the total cost to the purchaser of the Unit, excluding transfer taxes and title fees imposed by the City of Tempe, Maricopa County, and/or the State of Arizona. The Board may increase the Reserve Contribution from time to time with the approval of Owners representing at least a majority of the total votes in the Association.

Notwithstanding the above, no Reserve Contribution shall be levied upon transfer of title to a Unit:

(i) by or to Declarant;

(ii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;

(iii) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

(iv) to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the Reserve Contribution shall become due;

(v) by a trustee's deed following a trustee's sale under a deed of trust;

(vi) as a result of the foreclosure of a realty mortgage or the forfeiture or foreclosure of a purchaser's interest under a recorded contract for the conveyance of real property subject to A.R.S. Section 33-741, *et seq.*;

(vii) to the Association, the Master Association, or the Joint Committee; or

(viii) under circumstances that the Board, in its discretion, deems to warrant classification as an exempt transfer (*e.g.*, a transfer made solely for estate planning purposes may be, but is not required to be, deemed exempt from payment of the Reserve Contribution).

Reserve Contributions shall be deposited in a separate capital reserve account.

(n) *Administrative Fee on Unit Transfers.* The Board shall collect an "Administrative Fee" upon each transfer of title to a Unit by any Person other than Declarant. The Administrative Fee shall be charged to the purchaser of the Unit, shall be payable to the Association at the closing of the transfer, and shall be secured by the Association's lien for assessments under subparagraph (g).

The purpose of the Administrative Fee shall be to compensate the Association for the administrative cost resulting from the transfer of title to a Unit and the Board may establish and revise the amount of the Administrative Fee from time to time. The Administrative Fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail or deliver to a purchaser under Section 33-1260A of the Act and, therefore, the Administrative Fee shall be in addition to the fee that the Association is entitled to charge pursuant to Section 33-1260A of the Act.

11. Association Rights and Responsibilities.

Peace rules the day when reason rules the mind. Wilkie Collins

(a) *Right of Entry.* The Association shall have the irrevocable right of access to and entry into each Unit and the Limited Common Elements during reasonable hours, when necessary for the maintenance, repair, or replacement of the Common Elements, including the Limited Common Elements, and of the Common Maintenance Area, and as necessary to prevent damage to the Common Elements, Common Maintenance Area, or to a Unit or Units.

The right of entry shall include an easement in favor of the Association and its designees over the Units and the Limited Common Elements for the purpose of performing such pest control activities as the Association may deem necessary for the control, prevention, or eradication of insects, rodents, or other pests in Bridgeview; for inspection of sprinkler systems; for correction of emergency conditions or casualties in the Units, the Common Maintenance Area, the Common Elements, or the Limited Common Elements; and for verifying the performance by Owners of items of maintenance and repair for which they are responsible. Except in an emergency, the Owner or occupant of the Unit shall be given reasonable notice prior to any entry into the Unit under this subparagraph (a).

At the request of the Association, an Owner shall provide the Association with a key to the Owner's Unit and any security alarm code to enable the Association to gain access to the Unit for purposes described in this subparagraph (a). To the extent provided in subparagraph (e) below, directors and officers shall be insulated from liability and shall be entitled to indemnification by the Association in connection with action taken under this subparagraph.

The Association may require that the Owner and occupant of a Unit relocate temporarily during the Association's maintenance or repair of a Unit or other portions of Bridgeview (e.g., during fumigation of all or portions of the building). The Association shall not be responsible for any costs or other inconvenience to any Owner or occupant in such event.

(b) *Rulemaking Authority.* The Association, acting through the Board, may make and enforce reasonable rules regulating the use of Bridgeview, including the Units, Limited Common Elements, and Common Elements. The Association's regulatory authority is subject to the

Joint Committee's right under the East Declaration to operate, maintain, and regulate the underground parking facilities within Bridgeview and such other portions of the Common Elements as are designated in the East Declaration as being subject to the Joint Committee's regulatory authority.

Such rules shall be consistent with the provisions of this Declaration and the Act and shall not unreasonably restrict any Owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in the Common Elements. Upon the vote at a meeting of Owners entitled to cast a majority of the total Association vote, the membership may modify or rescind any rules which the Board has adopted. Notice of any annual or special meeting at which the modification or repeal of any rule is to be considered and voted on by the members shall contain a statement to that effect. Copies of all rules shall be furnished to all Owners.

(c) Enforcement. Subject to compliance with procedures required under the Act and in the By-Laws, the Association, acting through the Board, shall have the right to enforce the provisions of the Condominium Documents and all Association rules by the imposition of reasonable monetary fines, by suit at law or in equity, or, in an appropriate situation, by self-help (including, but not limited to, towing of vehicles parked in violation of parking rules). Nothing herein shall be construed as limiting any other legal or equitable means of enforcing the Condominium Documents or Association rules. Monetary fines and/or any costs the Association incurs in exercising its right of self-help may be levied against the violating Unit as a Specific Assessment, as provided in Paragraph 10, after compliance with the procedures set forth in the By-Laws, if applicable.

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

The failure to take enforcement action in the case of a violation of any provision of the Condominium Documents or Association rules shall not constitute a waiver of the right to enforce subsequent violations of the same provision or rule thereafter. No liability shall be imposed on or incurred by the Association or the Board for failure to enforce any such violation. The prevailing party in any action at law or in equity instituted to enforce the provisions of the Condominium Documents or Association rules shall be entitled to all costs incurred in connection therewith, including, without limitation, reasonable attorneys fees.

(d) No Liability for Third Party Acts. Owners and occupants of Units, and their

respective guests and invitees, are responsible for their own personal safety and for their property within Bridgeview. The Association, the Joint Committee, and/or the Master Association may, but are not obligated to, maintain or support certain activities which promote or enhance safety or security within Bridgeview, including, without limitation, monitoring and restricting access into all or portions of Bridgeview. However, the Association, the Master Association, the Joint Committee, Declarant, and their respective current and former partners, members, directors, officers, agents, employees, affiliates, and committee members, shall not in any way be considered insurers or guarantors of safety or security within Bridgeview, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including fire protection, burglar alarm, or other monitoring systems, or any mechanism or system for limiting access to Bridgeview, cannot be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, the Master Association, the Joint Committee, Declarant, and their respective current and former partners, members, directors, officers, agents, employees, and committees, are not insurers or guarantors of security or safety and that each Person within Bridgeview as-

sumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

(e) *Liability and Indemnification of Officers, Directors, and Committee Members.* The Association's current and former officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, nor for injury or damage caused in the performance of their duties, except for their own individual willful misfeasance or malfeasance. Current and former officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association).

The Association shall indemnify every current and former officer, director, and committee member, to the fullest extent permitted by Arizona law, against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such current or former officer, director, or committee member in connection with any action, suit, or other proceeding (or settlement thereof, if approved by the Board serving at the time of such settlement) to which such current or former officer, director, or committee member may be made a party by reason of being or having been an officer, director, or committee member. The right to indemnification provided for herein shall not be exclusive of any other rights to which any current or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation.

(f) *Provision of Services.* The Association, acting through the Board, may enter into

bulk contracts for the provision of services to the Units, including but not limited to, duly franchised cable and satellite television service, commonly metered utility services, pest control services, and other services which the Board determines to be in the interest of the membership, and to determine that the cost of such service shall be a Common Expense.

(g) *Concierge.* The Association shall have the authority, but not the obligation, to employ a Person to act as a concierge for the benefit of the Owners, subject to the right of the Owners to terminate such service pursuant to this subparagraph. The Board shall determine, in its discretion, the hours of availability and scope of services to be provided by the concierge and may adopt rules and regulations designed to ensure that the concierge is available to provide such services to all Owners and occupants of Units who may wish to make use of them. Owners that desire additional services may make a request for additional services to the Board. The Association shall have the authority to terminate the concierge service, if any, upon the vote of Owners entitled to cast a majority of the total Association vote, excluding votes held by Declarant, at a duly called and held meeting of the membership. Expenses relating to the concierge may be Common Expenses assessed against all Owners as part of the General Assessment and/or the Association may charge fees for particular services only to Owners using such services.

(h) *Contracts, Agreements, and Covenants.* The Association, acting through the Board, shall be authorized to enter into, renew, extend, and modify contracts, agreements, and covenants with the Master Association, the Joint Committee, and other third parties for maintenance, management, and operation of Bridgeview and the Association, for the provision of services to the Units and the Owners and occu-

pants thereof, and for access to and use of facilities located outside of Bridgeview.

(i) *Use of Technology.* In recognition of the opportunities offered through computers and continuing advancements in the high technology fields, the Association may, as a Common Expense, provide for or offer services which make use of computers and other technological opportunities. For example, to the extent Arizona law permits, and unless otherwise specifically prohibited in the Condominium Documents, the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; send and collect assessment and other invoices over the computer; sponsor a community cable or satellite television channel; create and maintain a community intranet or Internet home page offering interactive participation opportunities for users; maintain an "online" newsletter or bulletin board; and provide funding for any of the above purposes.

(j) *Association Obligations Prior to Sale of First Unit.* Notwithstanding anything to the contrary in this Declaration, prior to the sale of the first Unit in Bridgeview to a purchaser other than a successor Declarant, any or all of the obligations of the Association hereunder may be performed directly by Declarant or its affiliates or agents in the name of Declarant and on behalf of the Association, provided that Declarant funds all Common Expenses incurred prior to the date of such first sale.

(k) *Compliance with Governmental Requirements.* Without limiting the generality of the foregoing, the Association shall assume all of Declarant's (and Declarant's affiliates') responsibilities to Maricopa County, the City of Tempe, including their respective governmental or quasi-governmental subdivisions, any state and federal agencies, and similar entities of any kind with

respect to the Common Elements, and shall indemnify and hold Declarant and its affiliates harmless with respect to such assumed responsibilities.

(l) Liability for Association Operations.

The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant (including its successors and assigns) from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and costs at all tribunal levels and whether or not suit is instituted, including those incurred in establishing the right to be indemnified, defended, and held harmless pursuant hereto) which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of amenities and other portions of the Common Elements and the collection of assessments.

12. Insurance: Repair and Reconstruction.

We cannot escape the responsibility of tomorrow by evading it today. Abraham Lincoln

(a) Association Responsibility.

(i) Commencing with the sale of the first Unit to a purchaser other than a successor Declarant, the Association shall obtain and maintain at all times, as a Common Expense, property insurance and liability insurance, which complies with the requirements under Section 33-1253 of the Act and the applicable requirements under the Master Declaration. Liability insurance shall be in such amounts as the Board deems appropriate in the exercise of its business judgment, but not less than \$500,000.00 for personal injury, including death, to a single person;

\$5,000,000.00 for injury or injuries, including death, arising out of a single occurrence; and \$500,000.00 for property damage.

All such insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees, if any. If permitted, Declarant, for so long as it owns a Unit, and the Joint Committee shall be additional insureds under the Association's policies. The Board shall annually conduct an insurance review to determine if the policies in force are adequate to meet the needs of the Association. Such insurance shall run to the benefit of the Association, the Owners, and their Mortgagees, as their interests may appear, Declarant, and the Joint Committee. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance meets the requirements of this Paragraph.

(ii) All policies of insurance shall be written with a company licensed to do business in Arizona. The company shall provide insurance certificates to each Owner and each Mortgagee.

(iii) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

(iv) In addition to the insurance required hereinabove, the Board shall obtain as a Common Expense:

(A) worker's compensation insurance if and to the extent necessary to meet the requirements of law;

(B) public liability and officers' and directors' liability insurance in such amounts as the Board may determine, but in no event less

than \$1,000,000.00 per occurrence, such insurance to contain a cross-liability endorsement;

(C) fidelity bonds covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. The amount of such bonds shall be sufficient to cover the maximum funds, including reserve funds, in the custody of the Association or its management agent at any time during the term of the bond. If reasonably available, the amount of the bond shall be not less than three months' aggregate assessments, plus reserves on hand as of the beginning of the policy year, and the bond shall contain a waiver of any defense based upon the exclusion of persons serving without compensation; and

(D) such other insurance as the Board may determine to be necessary.

(v) Insurance carried by the Association as a Common Expense shall not include any part of a Unit which is neither depicted on the original Plat and Plans nor included in the original Mortgage, nor shall the Association include liability insurance for individual Owners for liability arising within the Unit. Association insurance coverage may exclude improvements and betterments installed by Owners and the personal property of Owners. Nothing contained herein gives any Owner or other party a priority over any rights of first Mortgagees as to distribution of insurance proceeds.

(b) Owner Responsibility. Every Owner shall obtain and maintain at all times insurance covering his or her Unit to the extent not insured by policies maintained by the Association. In addition, to the extent not insured by policies maintained by the Association or to the extent insurable losses result in the payment of deductibles under the Association's policies, every Owner shall obtain and maintain at all times in-

insurance covering consequential damages to any other Unit or the Common Elements due to occurrences originating within the Owner's Unit caused by the negligence of the Owner, the failure of the Owner to maintain the Unit, or any other casualty within the Unit which causes damage to the Units or the Common Elements.

At the request of the Board, an Owner shall file a copy of each individual insurance policy covering their Unit and personal property with the Board within 10 days after receiving such request. An Owner shall promptly notify the Board in writing if any such policy is cancelled or not renewed.

(c) Board Authority - Insurance Coverage.

(i) The Board, upon resolution, shall have the authority to require all or any Owner(s) to do any act or perform any work involving portions of Bridgeview which are the maintenance responsibility of the Owner, which will, in the Board's discretion, decrease the possibility of fire or other damage to Bridgeview, reduce the insurance premium paid by the Association for any insurance coverage, or otherwise assist the Board in procuring or maintaining such insurance coverage; provided, if the cost of providing such required work would exceed \$300.00 per Unit in any fiscal year, then the required work shall be approved by the affirmative vote of Owners entitled to cast a majority of the total votes represented at an annual or special meeting of the Association, which meeting notice specifies that the purposes of the meeting include consideration of such resolution. This authority shall include, but not be limited to, requiring Owners to install smoke detectors and such other measures as the Board may reasonably require.

(ii) In addition to, and not in limitation of, any other rights the Association may have, if

any Owner does not comply with any reasonable requirement made by the Board pursuant to Paragraph 12(c)(i), the Association, upon 15 days' written notice (during which period the Owner may perform the required act or work without further liability), may perform such required act or work at the Owner's sole cost and expense. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to Paragraph 12(c)(i), including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

(d) *Damage or Destruction.* Immediately after a fire or other casualty causing damage to or destruction of all or any part of Bridgeview, the Board shall file and adjust all Association insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring Bridgeview to its condition prior to the damage or destruction in accordance with the original Plat and Plans, allowing for such changes or improvements as may be necessitated by changes in applicable building codes. Such costs may include professional fees and premiums for such bonds as the Board determines appropriate.

Unless at least 80% of the Owners, including the Owner(s) of any damaged Units, vote not to proceed with the reconstruction and repair of the damaged improvement, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the damaged improvement in accordance with the original Plat and Plans, allowing for such changes as may be necessitated by changes in the applicable building codes. In the event of substantial damage or destruction, each "Interested Mortgagee" (as defined in Paragraph 16) shall be entitled to written notice of the damage. Nothing in these documents shall be construed to afford priority to any

Owner with respect to the distribution of proceeds allocable to any Unit.

The repair or reconstruction of any damaged improvements also is subject to applicable approval requirements under the Master Declaration.

The procedure for repair and reconstruction shall be as follows:

(i) *Cost Estimates; Contract for Restoration.* The Board shall select contractors and enter into contracts for the restoration work on such terms and conditions as the Board deems appropriate in the exercise of its business judgment.

(ii) *Source and Allocation of Proceeds.* All proceeds from any insurance award or settlement shall be payable to the Association for the benefit of the Owners and Mortgagees of Units. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, assessments shall be made against all of the Owners. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Owners on account of such casualty shall constitute a construction fund which shall be disbursed in appropriate progress payments to the contractor(s), supplier(s), and other personnel performing the work or supplying materials or services. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

(iii) *Encroachments.* Encroachments upon or in favor of Units created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the improvements were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

13. Maintenance.

Good order is the foundation of all things.
Edmund Burke

(a) *By the Owner.* Except to the extent otherwise provided below, each Owner shall maintain and keep in good repair in a manner consistent with the Community-Wide Standard all portions of his or her Unit, and, in addition, shall perform (i) routine cleaning of the interior and exterior surfaces of exterior windows and doors located on or in an exterior wall between a Unit and a balcony, porch, courtyard, or patio assigned to such Unit as a Limited Common Element; (ii) routine cleaning of the glass surfaces on any short walls enclosing a balcony; and (iii) routine cleaning and sweeping of any balcony, porch, courtyard, patio, or storage space assigned as a Limited Common Element of his or her Unit. Notwithstanding the above, the Association may, from time to time, but shall not be required to, perform routine cleaning of any or all of the above-described exterior glass surfaces.

(b) *By the Association.* The Association shall maintain and keep in good repair in a manner consistent with the Community-Wide Standard all of the Common Elements (including, except as provided above, the Limited Common Elements) and the Common Maintenance Area.

The Association's responsibility includes, without limitation, the repair, replacement, and cleaning (except as provided in Paragraph 13(a)) of exterior windows and doors and the maintenance of air conditioning filters and condensation lines, regardless of whether located within the boundaries of a Unit.

The Association shall maintain, repair, and replace as necessary all exterior building surfaces (except as provided in Paragraph 13(a)); all structural components of the building (including, without limitation, wall studs and other materials comprising the perimeter walls of a Unit); concrete, wallboard, or other unfinished material comprising or which are otherwise a part of the perimeter walls, floors, and ceilings of the Units; and finished surfaces and materials (e.g., paint, wallpaper, wallboard, etc.) of all interior Common Element hallways or corridors.

Notwithstanding the above, the Association shall repair incidental damage to any Unit resulting from the performance of work that is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be completed only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms, or corporations of its choice such duties as are approved by the Board.

Generally, the Association's cost of providing maintenance to the Common Elements and Common Maintenance Area shall be a Common Expense allocated among all Units in accordance with each Unit's Allocated Interest, as set forth on Exhibit "C;" provided, the Association's costs related to maintaining, repairing, or replacing Limited Common Elements or portions of any Unit other than Common Maintenance Area may

be allocated among all or less than all Owners as provided in Paragraph 10(b)(i).

Except as specifically provided in this subparagraph (b), or to the extent that insurance required to be maintained or maintained by the Association covers any damage or loss, the Association shall not be responsible for any maintenance or repair to any portion of any Unit.

If the Board determines that the need for maintenance, repair, or replacement which is the Association's responsibility is caused through the willful or negligent act of any Owner, or occupant of a Unit, their guests, lessees, or invitees, and it is not fully covered or paid by insurance, then the Association may, but is not obligated to, provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, and replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board.

(c) *Sprinkler System.* Bridgeview is equipped with a sprinkler system which includes sprinkler heads that intrude into the Units. All pipes, heads, caps, assemblies, and other parts of the sprinkler system shall be a part of the Common Elements or Common Maintenance Area (to the extent located within a Unit's boundaries) and shall be maintained, repaired, and replaced by the Association. Sprinkler heads, caps, and assemblies may not be painted or caulked over or otherwise covered, altered, or tampered with in any manner.

If an Owner or occupant of a Unit causes the sprinkler system to be activated (except in the case of a fire) or damages or destroys any part of

the sprinkler system, the Owner of the Unit shall be responsible for any costs the Association incurs in repairing the system and for all other losses or damages resulting from such actions, including, without limitation, damages to the Common Maintenance Area, Common Elements, the Limited Common Elements, or other Units.

(d) *Failure to Maintain.* In the event the Association fails or refuses to properly perform its maintenance responsibilities, the Master Association or the Joint Committee shall be authorized to assume the maintenance responsibilities of the Association hereunder and to assess all costs thereof to the Association as provided in the Master Declaration or the East Declaration, as applicable.

(e) *Insurance Deductibles.* If maintenance is required as a result of an insured loss, the amount of the deductible shall be considered a maintenance expense to be paid by the Person or Persons (including the Association, if appropriate) who would be responsible for such repair in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the Board may apportion the cost of the deductible equitably among the parties suffering loss in accordance with the total cost of repair. Notwithstanding the above, should the Association's policies provide for a per Unit/per occurrence deductible, each Owner shall be responsible for any deductible applicable to such Owner's Unit.

14. Restrictions on Use, Occupancy, and Transfer.

Liberty exists in proportion to wholesome restraint. Daniel Webster

In addition to such rules as the Board or the membership may adopt pursuant to Paragraph 11(b), the use of Bridgeview and the occupancy and transfer of Units shall be subject to the use restrictions set forth in this Paragraph.

Bridgeview also is subject to further restrictions on use, occupancy, and transfer as set forth in the Master Declaration and the East Declaration. Such restrictions shall apply in addition to those set forth in this Paragraph, and the more restrictive shall control.

(a) *Residential Use.* Units shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Unit, except that the Owner or occupant residing in a Unit may conduct "discreet business activities" within the Unit which are ancillary to a primary residential use so long as:

(i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; provided, a discreet sign may be displayed in a manner consistent with any rules or design guidelines promulgated by the Board if required by governmental regulation or as otherwise approved in writing by the Board;

(ii) the business activity does not involve regular visitation of the Unit or involve door-to-door solicitation of residents of Hayden Ferry Lakeside;

(iii) the business activity does not, in the Board's reasonable judgment, generate a level of pedestrian or vehicular traffic to and from the

Unit, or a number of vehicles being parked within Bridgeview, which is significantly greater than that typical of Units in which no business activity is conducted;

(iv) the business activity conforms to all zoning requirements for Bridgeview;

(v) the business activity does not increase the Association's liability or property insurance obligations or premiums; and

(vi) the business activity is consistent with the primarily residential character of Bridgeview and does not constitute a nuisance or a hazardous or offensive use, as the Board may determine in its discretion.

For purposes of this subparagraph (a), the terms "business" and "trade" shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (A) such activity is engaged in full or part-time; (B) such activity is intended to or does generate a profit; or (C) a license is required therefor. Notwithstanding the above, the leasing of a Unit for purposes consistent with this subparagraph (a) shall not be considered a trade or business.

This subparagraph (a) shall not apply to any activity conducted by Declarant with respect to its development and sale of Bridgeview, its use of any Units which it owns, or its exercise of any Special Declarant Rights (including Development Rights).

(b) *Animals and Pets.* No animals, livestock, or poultry of any kind other than usual and

common household pets shall be raised, bred, or kept on any part of Bridgeview. Except as the Board may otherwise permit in its discretion, no more than two usual and common household pets may be kept in any Unit. Animals may not be kept, bred, or maintained for any commercial purpose and any animal which endangers the health or safety of, or unreasonably disturbs the Owners or occupants of other Units or otherwise creates a nuisance is prohibited.

No pet shall be kept or left on any balcony, porch, courtyard, or patio, or tied to any structure outside a Unit when the pet owner or other responsible person is not present. At all times when pets are outside a Unit, they shall be kept on a leash or otherwise be under the complete physical control of a human being. Pet owners are responsible for cleaning up after their pets on all portions of Bridgeview.

Except as the Board may otherwise specifically permit, and except for a balcony, porch, courtyard, or patio assigned as the Limited Common Element of a Unit, pets are prohibited on the Common Elements except as necessary to travel to and from a Unit.

If an Owner or occupant fails to abide by the restrictions or rules applicable to pets, in addition to any other sanctions which may be imposed under the Condominium Documents, the Board may bar or otherwise provide for the removal of such Owner's or occupant's pet from Bridgeview. Except in the case of a pet which, in the Board's discretion, endangers the health or safety of any person, the Board shall provide an Owner or occupant of a Unit with seven days written notice and an opportunity for a hearing in accordance with the By-Laws prior to requiring the removal from Bridgeview of the pet. Without the necessity of prior notice or an opportunity for a hearing, the Board may require or otherwise provide for the immediate and permanent removal

from Bridgeview of any pet which, in the Board's discretion, endangers the health or safety of any person.

(c) *Signs; Flags.* No signs or flags of any kind that are visible from outside of a Unit shall be erected, placed, or permitted to remain on Bridgeview without the written consent of the Board or its designee, except that a discreet sign may be displayed in a manner consistent with any rules or design guidelines promulgated by the Board if required by government regulations; provided, Declarant and the Board shall have the right to erect reasonable and appropriate signs and flags throughout Bridgeview. The display of "For Sale" or "For Rent" signs is prohibited within Bridgeview.

Notwithstanding the above, to the extent the Act so provides, the Association may not prohibit the outdoor display of an American flag by an Owner on such Owner's Unit if the flag is displayed in a manner consistent with the federal flag code. The Board may enact reasonable rules regulating the placement and manner of displaying American flags and may limit the size of any flag to the extent consistent with the Act. No flag shall be displayed from any balcony or courtyard railing or be permitted to flutter or rustle such that it may be heard by the occupants of other Units.

(d) *Rubbish, Trash, and Garbage.* All rubbish, trash, and garbage shall be regularly removed from and shall not be allowed to accumulate in the Units. Rubbish, trash, and garbage shall not be placed or kept on any portion of the Common Elements, including any Limited Common Elements, except in trash chutes or other receptacles provided for such purposes. The Board may enact such other reasonable rules concerning litter and trash control as it may deem necessary or appropriate or as may otherwise be required to comply with applicable gov-

ernmental or quasi-governmental permits or approvals.

(e) *Use of Common Elements and Common Maintenance Area.* No Owner or occupant of a Unit, or anyone acting on behalf of an Owner or occupant, shall make any alteration to the Common Elements, Common Maintenance Area, or, except as permitted with respect to the Limited Common Elements, place, erect, or maintain any structures or other items on the Common Elements or Common Maintenance Area. Owners and occupants of Units are prohibited and restricted from using or personalizing any portion of Bridgeview outside of their respective Units, except as the Board or the Condominium Documents, as applicable, otherwise may permit.

Owners and occupants of Units are prohibited from altering, penetrating, using, or personalizing in any way that portion of the Unit which is (i) the outermost exterior surface of the perimeter wall separating the Unit from the outdoors and forming a part of the perimeter of the building; (ii) the plaster, wallboard, or other material comprising the Common Element side of any perimeter wall separating the Unit from a Common Element corridor; and (iii) the concrete, wallboard, or other material comprising the ceilings or walls of the Units (provided, painting, wallpapering, or otherwise finishing such materials is permitted). No Person shall penetrate, drill into or otherwise invade the concrete surface of any wall, floor, ceiling, or column for any purpose without the prior consent of the Association, which consent may be withheld in the Board's discretion.

Notwithstanding the above, an Owner may drill, screw, or nail into the wallboard (but not any concrete surfaces) forming the walls of the Unit for the purpose of hanging or securing fixtures, cabinets, decorative pictures and similar

items; provided, such installation does not damage or diminish the structural integrity, fire-proofing, or sound insulation of such wallboard.

(f) *Subdivision of Units.* No Unit shall be subdivided or its boundary lines altered except as provided in Paragraph 4(d) or by Declarant pursuant to its reserved Development Rights.

(g) *Impairment of Units and Easements; Use of Electrical System.* No Person shall do any act or work that impairs the structural soundness or integrity of any Unit or impairs any easement, nor shall any Owner or occupant do or permit any act or allow any condition to exist which adversely affects the other Units or the Owners or occupants of the other Units.

Waterbeds, aquariums having a water storage capacity of 100 gallons or more, and other abnormally heavy furnishings and equipment may not be placed, kept, installed, or otherwise used in any Unit without the Board's prior consent, which consent may be withheld based upon reasonable concerns with floor load capacities, noise, or other factors.

The concrete flooring for each Unit contains a post-tension support system which is integral to the structural integrity of the building. As such, no Person shall drill into or otherwise invade the concrete surface of the flooring or ceiling for any Unit for any purpose without the prior consent of the Association, which consent may be withheld in the Board's discretion.

The electrical system serving the Units is designed to accommodate normal and customary residential usage. No Person shall install, operate, or otherwise use machines, appliances, accessories, or

equipment which overload or otherwise exceed the capacity of the electrical system for Bridgeview or for any Unit, or cause an unreasonable disturbance to others. Any changes or modifications to the electrical wiring within a Unit must be approved in writing by the Board, and any approved modifications to the electrical wiring must be installed or conducted by a licensed electrician and permitted through the City of Tempe pursuant to any applicable electrical or building codes.

(h) *Transient Use; Timesharing.* No Unit shall be made subject to or used for any hotel or transient purposes, nor for any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of a Unit rotates among owners, participants, or members of the program on a fixed or floating time schedule over a period of years.

Notwithstanding the above, in the case of a Unit which is owned by a corporation, firm, limited liability company or other legal entity, such Unit may be occupied on a periodic basis by any director, officer, partner, or employee of such entity as the Owner may designate in writing to the Association; provided, the designee may be changed no more than 12 times in any 12-month period and only upon the payment of such reasonable change fee as the Board may establish from time to time. The occupancy restrictions set forth in Paragraph 14(u) also shall apply to occupancy under this paragraph.

(i) *Antennas.* No exterior television or radio antennas or satellite dish of any sort shall be placed, allowed, or maintained upon any portion of the improvements located upon any portion of Bridgeview, including any portion of any structure on Bridgeview, except as otherwise must be permitted by law and pursuant to such rules as

the Board may adopt. In addition, an Owner may place and maintain a satellite dish having a diameter of one meter or less at an approved location on the roof of the Bridgeview condominium building, provided Declarant or the Association has provided or provided for a conduit running from such Owner's Unit to the roof for such purpose. Each Unit shall be limited to one such satellite dish on the roof of a building.

Notwithstanding the above, Declarant or the Association may install and maintain an aerial or other apparatus or cable for a master antenna, cable, or satellite system, should any such master system or systems be utilized and require any such exterior antenna, cable, satellite, or other apparatus.

(j) *Quiet Enjoyment; Noise.* No Person may use any portion of Bridgeview, nor shall any Owner or occupant of a Unit use or allow the use of the Unit, in any way or for any purpose which may endanger the health or safety of, or unreasonably annoy or disturb, the Owners, occupants, guests, or invitees of any other Unit, or in such a way as to constitute, in the sole opinion of the Board, a nuisance or a hazardous or offensive activity or use.

No Owner or occupant of a Unit may use or allow the use of the Unit, the Common Elements or the Limited Common Elements between the hours of 10:30 p.m. and 7:30 a.m. in any manner which creates levels of noise that can be heard by persons in another Unit or that, in the opinion of the Board, interferes with the rights, comfort, or convenience of the others.

(k) *Unsightly or Unkempt Conditions.* The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly,

or unkempt conditions is prohibited on any part of Bridgeview.

(l) *Parking.* All parking on the Common Elements shall be governed by the following:

(i) *Designation.* Parking on the Common Elements shall be permitted only within designated parking spaces. Subject to the rights of the Joint Committee under the East Declaration, the Board may regulate and control access to the parking areas through card-controlled access or other means. Subject to the Association's right to lease parking spaces to particular Owners on negotiated terms and the Joint Committee's right to regulate or restrict parking, parking spaces other than those assigned as Limited Common Elements shall be available for guest and other parking on a first come, first served basis. The Board may by rule further define, limit, or regulate parking both within the enclosed parking garages and otherwise.

(ii) *Restriction on Use.* Parking spaces designated as Limited Common Elements shall not be used for any purpose other than parking of motor vehicles, except with the prior written approval of the Board.

(iii) *Prohibited Vehicles.* Vehicles other than passenger automobiles may not be parked or otherwise stored on the Common Elements except in an area or areas, if any, specifically designated by the Board for parking or storing such vehicles. Without limiting the generality of the foregoing, such prohibitions shall apply to the following vehicles: disabled vehicles, vehicles over 18 feet in length or 7 feet in width, or having more than 4 wheels, mobile homes, motor homes, campers, trailers of any kind, boats, boat trailers, recreational vehicles, pick-up trucks with camper tops or other raised enclosures, and vehicles primarily used for commercial purposes. Notwithstanding the above,

trucks and commercial vehicles shall be allowed temporarily on the Common Elements during normal business hours for the purpose of serving any Unit or the Common Elements.

(iv) *Definitions.* For purposes of Paragraph 14(l), the terms used herein are defined as follows:

(A) A "disabled vehicle" shall mean any vehicle that has not been in operating condition within the last 30 days, does not have a current license plate, registration, or operating license, or is put on blocks.

(B) A "passenger automobile" shall include cars, pick-up trucks without raised enclosures, "sports utility vehicles," and "mini-vans" (as such vehicles are commonly referred to, as determined in the Board's discretion) designed and used primarily to transport passengers for other than commercial purposes.

The Board shall be authorized to enforce this provision by towing vehicles parked in violation of this provision, in accordance with the procedures set forth in the By-Laws.

(m) *Window Coverings.* Blinds, shades, screens, decorative panels, or other window or door coverings shall not be attached to, hung, or otherwise used in connection with any window or door in a Unit in such a manner as to be visible to the outside, except in compliance with guidelines the Board establishes or with the Board's prior written consent. Any type of reflective film or coating on any window, glass door, or glazed surface of any structure visible from the outside is prohibited.

(n) *Flea Markets.* Carport sales, garage sales, flea markets, and similar activities involving the outdoor display and sale of goods are prohibited on any portion of Bridgeview.

(o) *Firearms.* The discharge of firearms, including "B-B" guns and other firearms of all types and sizes, is prohibited anywhere within Bridgeview. The display of firearms outside of the Unit also is prohibited.

(p) *Control Over Employees.* No Owner or occupant of a Unit shall direct, supervise, or in any manner attempt to assert any control over the employees of the Association.

(q) *Vacant Unit Upkeep.* A Unit may not be left vacant for any extended period unless, prior to the departure of the Unit's occupants: (i) a responsible firm or individual is designated to care for the Unit and such firm or individual is capable of responding to any notice of any issue concerning the Unit within a 24-hour period; and (ii) the Association is provided the name of said firm or individual.

(r) *Floor Coverings; Other Sound-Deadening Insulation.* The floors of each Unit above the first floor in any building in Bridgeview must be covered with carpeting, by either wall-to-wall carpeting or area rugs, or other sound-deadening material. The Owner of any Unit containing a whirlpool or spa bath may be required to install a greater amount of or a different variety of insulation or other sound-deadening material than would otherwise be required for other Units.

Carpeting in a Unit may not be replaced with tile, hardwood, laminate, or other hard-surface flooring without first obtaining the written approval of the Board, which it shall have no obligation to grant. Any application for approval of such a change shall be accompanied by credible evidence demonstrating to the satisfaction of the Board that such replacement will not permit a greater level of noise to be heard in the Unit beneath the Unit to which the change is to be made than the average noise level in Units beneath

Units with carpet in such areas. Notwithstanding any such evidence, the Board may require sound abatement measures as a condition of approval or after approval has been granted if, in the Board's judgment, noise levels have materially increased as a result of such change. The Association, the Board, its officers, or directors shall not have any liability to any Person for any approval or disapproval granted hereunder, including without limitation, in the event that noise levels resulting from any such change prove to be greater than anticipated, or sound abatement measures prove inadequate.

(s) *Leasing of Units.* "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by a person or persons other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Notwithstanding, occupancy by a roommate or foster child residing in the Unit contemporaneously with the Unit Owner for which the Owner receives some consideration or benefit shall not be considered "leasing" for purposes of this subparagraph (s). No prior approval shall be necessary to lease a Unit; however, the leasing of Units shall be subject to and governed by the following:

(i) Units may be leased only in their entirety; no fraction or portion of a Unit may be separately leased. All leases, including all subleases, shall provide for an initial term of at least 12 months, unless the Board, in its discretion, otherwise permits a shorter lease term.

(ii) The Board may adopt rules requiring written notice of any lease and payment of a security deposit in an amount not to exceed the equivalent of one month's rent, which shall be held in an escrow account maintained by the Association to protect against damage to the Common Elements. Security deposits, if collected,

shall be handled, disbursed, and refunded in accordance with the procedures set forth in the Act.

(iii) The leasing of a Unit shall not relieve the Owner of any of its obligations under this Declaration, the Master Declaration, or the East Declaration, nor of any liability for violations of this Declaration relating to such Unit. Every purchaser, tenant, or lessee shall take possession of the Unit subject to the Condominium Documents and the provisions of the Act.

(iv) The Owner of any leased Unit is deemed to have transferred and assigned to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements, including parking and use of recreational facilities, and any rights and privileges that the Owner has to use other recreational facilities in Hayden Ferry Lakeside under the East Declaration, except as necessary to protect such Owner's interest as the lessor.

(t) *Notice of Transfer or Leasing of Units.* At least 10 days prior to closing of the transfer of title to a Unit or the initial date of occupancy under any lease of the Unit, the Owner of the Unit shall give written notice to the Board of his or her intention to transfer or lease the Unit. The notice shall state the name and address of the intended transferee or lessee, the terms of the proposed transaction, and such other information (to be requested within five days of receipt of such notice) as the Board may reasonably require. The Board shall provide such information to the Master Association and the Joint Committee.

(u) *Occupancy Limitation.* Occupancy of each Unit shall be limited to a family or, in the alternative, not more than three persons who are not related by blood, adoption, or marriage, or as domestic partners or in a foster family rela-

tionship (as such terms are defined by applicable City of Tempe ordinance). If applicable law prohibits enforcement of the occupancy limitations in this subparagraph, then occupancy of a Unit shall be limited to the maximum extent permitted under applicable law.

For purposes of this subparagraph (u), "occupancy" means staying overnight in a Unit for a total of more than 30 days; either consecutive or nonconsecutive, in any calendar year.

(v) *Elevator Use, Elevator Lobbies, and Adjoining Corridors.* Elevator access to a particular floor shall be restricted to the Owners and other occupants of the Units on such floor, and their respective guests and invitees, and such restricted use may be controlled by card activated access or other methods. Elevator lobbies shall not be used for any purpose other than access to and from a Unit; no person shall decorate, add, remove or rearrange furnishings, or store any item of personal property in an elevator lobby or adjoining corridor. The posting of notices or advertisements of any kind in the elevators, elevator lobbies, or adjoining corridors is prohibited.

(w) *Use of Balconies.* Balconies shall be used only for the purposes intended and shall not be used for hanging garments, towels, flags, signs, or other objects; for storing or keeping bicycles or other exercise equipment; or for cleaning rugs or other household items. Attaching or hanging flags, flagpoles, banners, hammocks, or other items to balconies or courtyard railings or ceilings is prohibited. Astro turf is prohibited on balconies. Balconies shall be kept in a clean and neat condition at all times.

No hot tub or spa may be installed or maintained on any balcony, except for those hot tubs or spas, if any, installed as part of the original construction of the balcony and except as may be

installed on a balcony that has been designed to accommodate such items with the approval of the Board subject to any standards imposed by the Board. A permitted hot tub or spa may be replaced so long as the replacement does not exceed the size, weight, wattage, or noise output of the original item.

No hose bib or water spigot may be installed on any balcony, except for hose bibs and spigots installed as part of the original construction of a Unit on the first floor. No automatic watering system may be installed or used on any balcony or attached to any hose bib or spigot.

The Board may enact reasonable rules (which may include limitations on the hours of use) governing the use of television and stereos, telephones, cooking facilities, and other things on balconies. All furniture, furnishings, umbrellas, and other materials to be kept on a balcony shall be of neutral colors that are harmonious with the external colors of the Bridgeview condominium building and shall be heavy enough so as not to be susceptible to being blown from balconies by wind. The Owner of a Unit to which a balcony is assigned as a Limited Common Element shall be responsible for, and shall be subject to sanction for in accordance with this Declaration, any object which blows or otherwise falls from, such balcony, regardless of the cause.

The Board may establish additional guidelines relating to furnishings and other things on balconies. Any items not specifically permitted under such guidelines shall be subject to the Board's prior approval.

Certain balconies shall be equipped with davits or other apparatus for use by the Association for maintenance purposes. No Person shall do any act or work that impairs or otherwise interferes with the Association's use of any such apparatus.

The term "balcony," as used in this subparagraph (w), shall include any courtyard, deck, or patio assigned to a Unit as a Limited Common Element.

(x) *Use of Storage Spaces.* Storage spaces designated as Limited Common Elements shall not be used for any purpose other than storage of personal property, except with the prior written approval of the Board. The storage of any materials which are hazardous, offensive, or otherwise constitute a nuisance, as the Board may determine in its discretion, is prohibited. Storage spaces are subject to inspection at any time by the Board or its designee; provided, except in the case of an emergency, the Board shall provide reasonable notice to the person having use of the storage space prior to an inspection.

(y) *Abandoned Personal Property.* Personal property, other than an automobile in a designated parking space, is prohibited from being stored, kept, or allowed to remain for a period of more than 24 hours upon any portion of the Common Elements other than on a Limited Common Element or a designated storage space, except as the Board may otherwise approve. The Board may remove and either discard or store any such personal property in a location which the Board may determine in its discretion. Prior to taking any such action, the Board shall place a notice on the personal property and/or on the door of the owner's Unit, if known, specifying the nature of the violation and stating that after two days the property may be removed and either discarded or stored. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation. If two days after such notice the violation continues or thereafter occurs again within six months of such notice, the personal property may be removed in accordance with the original notice,

without further notice to the owner or user of the personal property.

Notwithstanding anything to the contrary, the Board, in its discretion, may determine that an emergency situation exists, and the Board may cause the personal property abandoned or stored in violation of this subparagraph to be removed and either discarded or stored in a location which the Board may determine; provided, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three days after the personal property is removed.

If personal property is removed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

(z) *Wireless Internet Systems.* A wireless Internet communications network ("WiFi System") may be installed or otherwise used in a Unit provided precautions are taken to insure against interfering with, disturbing, or intercepting computer, communications, or other permitted electronic signals, networks, or systems installed in other portions of Hayden Ferry Lakeside. The Master Association, the Joint Committee, and the Association each may establish reasonable requirements relating to the installation of WiFi Systems that must be complied with, including, without limitation, requiring assurance from the installer of the system that proper precautions are being taken.

Notwithstanding the above, compliance with requirements relating to the installation of WiFi

Systems is not a guarantee that any WiFi System installed or otherwise used in Unit will not interfere with, disturb, or intercept other signals, networks, or systems. Each Owner is responsible for insuring that the WiFi System installed or otherwise used in his or her Unit does not so interfere with, disturb, or intercept other signals, networks, or systems within Hayden Ferry Lakeside. The Master Association, the Joint Committee, or the Association may require that any WiFi System found to cause such problems be terminated.

The Master Association, the Joint Committee, the Association, Declarant, and their respective current and former partners, members, directors, officers, agents, employees, affiliates, and committee members, shall not in any way be considered insurers or guarantors of the proper operation or use of any WiFi System in Bridgeview, nor shall any of such Persons be held liable for any loss or damage relating to the use or operation of WiFi Systems in Bridgeview.

15. Architectural Standards.

Any activity becomes creative when the doer cares about doing it right, or doing it better.
John Updike

(a) *Approval Required.* Except as otherwise provided herein or in the Act, no Person other than Declarant or the Association may make any encroachment onto the Common Elements or the exterior portions of a Unit, make any aesthetic change to any Common Element or exterior of any Unit, including any Limited Common Element, make any structural alteration or addition to any portion of Bridgeview, make any change to any portion of the drainage or utility systems serving Bridgeview, or erect, place, or

post any sign, object, light, or thing on the Common Elements or any portion of a Unit which is visible from outside the Unit, without first obtaining the written approval of the Board or its delegate in accordance with the procedures of Paragraph 15(c). The Board may exempt certain matters from the procedures set forth in this Paragraph, provided they are handled in strict compliance with such guidelines as the Board may adopt.

(b) Alterations Within Units. Owners may make any improvements, renovations, or alterations ("Improvements") within Units, but not the Common Maintenance Area, that do not materially impair the structural integrity of any structure or otherwise materially lessen the support of any portion of Bridgeview. Unless otherwise specifically permitted without prior notice, any such Improvement shall require that the Owner first notify the Board or its delegate and provide the Board or its delegate with evidence reasonably acceptable to it that the proposed Improvement will not so impair the structural integrity of any structure or lessen the support of any portion of Bridgeview. The Board may adopt reasonable regulations and guidelines with respect to such Improvements, including identifying the types of Improvements or specific Improvements which do not require that prior notice be given.

(c) Application Procedure. Applications for approval of a proposed change under this Paragraph shall be in writing and shall provide such information as the Board may reasonably require. The Board or its delegate may publish written architectural standards for exterior, interior, and Common Element alterations, additions, improvements, and renovations to assist Owners in planning and submitting applications for architectural approval and to facilitate the review and approval process, but the Board shall also be entitled to consider subjective elements of

proposed work in considering applications under this Paragraph. In the event that the Board or its delegate fails to approve or to disapprove any application within 60 days after being submitted, the applicant may give the Board written notice of such failure and if within 10 days after receipt of such notice the Board has still failed to act upon such application, the application shall be deemed approved; however, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the By-Laws, or the Association rules.

(d) Conditions of Approval. As a condition of approval of a requested architectural change, modification, addition, alteration, interior improvement, or renovation, an Owner, on behalf of him or herself and his successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance of such change, modification, addition, or alteration. In the Board's discretion, an Owner may be required to acknowledge such condition of approval, on behalf of himself and his successors-in-interest, by written instrument signed by the Owner, which the Board may cause to be recorded.

(e) Approval Under Other Declarations. Compliance with the provisions of this Paragraph shall be required in addition to, and not in lieu of, compliance with the architectural standards contained in the Master Declaration and the East Declaration, as applicable. Whenever approval of the Board is required hereunder, the granting of such approval shall not dispense with the need also to comply with the approval procedures set forth in such documents. All proposed construction, modifications, alterations, and improvements shall be approved pursuant to this Declaration before being submitted for approval pursuant to the Master Declaration or the East Declaration.

(f) The provisions of this Paragraph shall not apply to Declarant in the exercise of any Special Declarant Right. In addition to approval by the Board or its delegate, any improvements, alterations, or additions shall require Declarant's written consent for so long as Declarant owns any Unit or has the right to create Units pursuant to its reserved Development Rights.

16. Mortgagee Provisions.

The following provisions are for the benefit of holders of first Mortgages on Units. The provisions of this Paragraph apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

(a) *Notices of Action.* An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates), thereby becoming an "Interested Mortgagee," will be entitled to timely written notice of:

(i) any condemnation loss or any casualty loss which affects a material portion of Bridgeview or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Interested Mortgagee;

(ii) any delinquency in the payment of assessments or charges owed on a Unit subject to the Mortgage of such Interested Mortgagee, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Unit or the Owner or occupant thereof which is not cured within 60 days;

(iii) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(iv) any proposed action which would require the consent of a specified percentage of Interested Mortgagees.

(b) *Actions Requiring Approval of Interested Mortgagees.* To the extent required by the Federal Home Loan Mortgage Corporation and/or the Federal National Mortgage Association:

(i) Any restoration or repair of Bridgeview after a partial condemnation or damage due to an insurable hazard shall be substantially rendered or repaired in accordance with this Declaration and the original plans and specifications unless otherwise approved by the Interested Mortgagees of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by Interested Mortgagees are allocated.

(ii) Any election to terminate Bridgeview as a condominium and the Association after substantial destruction or a substantial taking in condemnation shall require the approval of Owners representing at least 67% of the total Association vote and the approval of the Interested Mortgagees of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by Interested Mortgagees are allocated.

(iii) Any election to terminate Bridgeview as a condominium and the Association under circumstances other than substantial destruction or a substantial taking in condemnation shall require the consent of Owners representing at least 80% of the total Association vote and of Declarant, so long as it owns any land subject to this Declaration, and the approval of the Inter-

ested Mortgagees holding first Mortgages on Units to which at least 67% of the votes of Units subject to Mortgages held by Interested Mortgagees are allocated.

(iv) In addition to the approval of Owners required under Paragraph 20, the approval of Interested Mortgagees holding Mortgages on at least 51% of the Units that are subject to a Mortgage held by an Interested Mortgagee shall be required to materially amend or add any provision to this Declaration, the By-Laws, or the Articles of Incorporation governing any of the following, except where such amendment is otherwise specifically authorized by this Declaration or the Act:

- (A) voting rights;
- (B) liability for assessments, assessment liens, or subordination of such liens;
- (C) reductions in reserves for maintenance, repair, and replacement of the Common Elements;
- (D) responsibility for maintenance and repair of Bridgeview;
- (E) reallocation of interests in or rights to use the Common Elements or Limited Common Elements;
- (F) redefinition of any Unit boundaries;
- (G) hazard insurance or fidelity bonds;
- (H) imposition of restrictions on leasing of Units;
- (I) imposition of any right of first refusal or similar restriction of the right of any

Owner to sell, transfer, or otherwise convey his or her Unit;

(J) establishment of self-management by the Association where professional management has been required by an Interested Mortgagee;

(K) restoration or repair of Bridgeview after damage or partial condemnation; and

(L) any provisions included in this Declaration, the By-Laws, or the Articles of Incorporation that are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

(v) Notwithstanding the above, the prior consent of any Interested Mortgagee to any matter referenced in Paragraph 16(b) shall not unreasonably be withheld.

(c) *Additional Requirements.* So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Without the prior consent of at least 67% of the first Mortgagees or Owners representing at least 67% of the total Association votes entitled to be cast, the Association shall not:

(i) by act or omission seek to abandon, partition, or subdivide, all or any portion of the real property comprising the Common Elements, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this subparagraph);

(ii) change the method of determining the obligations, assessments, dues, or other charges which may be levied against a Unit Owner (a change which is specifically contem-

plated and authorized by this Declaration (*e.g.*, the addition of Units to Bridgeview and the reallocation of liability for Common Expenses related thereto) shall not be subject to this provision);

(iii) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and Common Elements (including Limited Common Elements) (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(iv) fail to maintain insurance, as required by this Declaration; or

(v) use hazard insurance proceeds for losses other than those relating to the repair, replacement, or reconstruction of Bridgeview.

First Mortgagees may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against the Common Elements and may pay overdue premiums on property insurance policies or secure new property insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Notwithstanding the above, the prior consent of any Mortgagee to any matter referenced in subparagraph shall not unreasonably be withheld.

(d) *No Priority.* No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of

insurance proceeds or condemnation awards for losses to or a taking of the Common Elements.

(e) *Notice to Association.* Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

(f) *Amendment by Board.* Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation hereafter eliminate any of their respective requirements which necessitate the provisions of this Paragraph or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Paragraph to be recorded to reflect such changes.

(g) *Applicability of Paragraph 16.* Nothing contained in this Paragraph shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Arizona law for any of the acts set out in this Paragraph.

(h) *Failure of Mortgagee to Respond.* Any Mortgagee, including any insurer or guarantor of a Mortgage, who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

17. Special Declarant Rights.

The very essence of leadership is that you have to have a vision. Theodore Hesburgh

(a) *Use for Sales Purposes.* Declarant expressly reserves for itself, its successors and

assigns, the right to use one or more Units owned or leased by Declarant, or such successors or assigns, as models, and to use any such Units and any portion of the Common Elements for management, sales, resales, or rental offices and for promotional events. Such model units, management, sales, resales, and rental offices may be maintained in such number and size as Declarant may determine, in its sole discretion, and may be located and relocated in Units and/or in any improvements on the Common Elements as Declarant may determine. Declarant further reserves the right to maintain on the Common Elements advertising signs in any location or locations and from time to time to relocate and/or remove the same, all in Declarant's sole discretion. In addition, Declarant reserves for itself and its affiliates a perpetual, non-exclusive easement of access to and use of the Common Elements in connection with the marketing and sale of other properties in order to show Bridgeview as an example of Declarant's projects. Declarant reserves the rights set forth in this subparagraph (a) until the tenth anniversary of the recording of this Declaration.

(b) Appointment of Officers and Directors. Declarant may appoint and remove the officers of the Association and the members of the Board during the Declarant Control Period. The Declarant Control Period shall terminate no later than the earlier of:

(i) 90 days after the conveyance of 75% of the Units which may be created in Bridgeview to Owners other than Declarant (or any successor Declarant or other "declarant" under the Act); or

(ii) four years after Declarant (or any successor Declarant or other "declarant" under the Act) has ceased to offer Units for sale in the ordinary course of business.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board prior to the termination of the Declarant Control Period; provided, in such event, Declarant may require in a recorded instrument that, until termination of the Declarant Control Period, specified actions by the Association be subject to Declarant's approval prior to becoming effective.

After the termination or surrender of Declarant's rights to appoint and remove officers and voting members of the Board, the Joint Committee shall have the right to appoint one non-voting member of the Board.

(c) Other Special Declarant Rights. In addition to the Special Declarant Rights provided above, Declarant reserves the right, until the tenth anniversary of the recording of this Declaration, in compliance with the Act, and without the consent of any Owner or Mortgagee, to:

(i) Use the easements through the Common Elements described in Paragraph 18 for the purpose of making improvements within Bridgeview;

(ii) Complete all or any portion of any improvements indicated or contemplated on the Plat and Plans; and

(iii) Exercise, in the manner described in Section 33-1220 of the Act, any of the Development Rights with respect to any of the real estate described on Exhibit "A."

(d) Successor Declarant. No successor to Declarant by operation of law or through purchase of Declarant's interest in Bridgeview, or any part thereof, at foreclosure shall be liable for any act, omission, or matter occurring prior to the time such successor succeeded to the interest of Declarant.

18. Easements.

(a) *Easement to Declarant.* Declarant expressly reserves for itself, its mortgagees, agents, assigns, and employees an easement through the Common Elements, and the right of access to any Unit (upon reasonable notice), as may be reasonably necessary, for the purpose of (i) making and constructing improvements within Bridgeview, which shall include, without limitation, providing warranty services, as applicable, to Owners and the Association; (ii) exercising any Development Right or Special Declarant Right, including the right to operate and maintain model units within Bridgeview and sales and management offices in connection with the sale of Units and other property owned by Declarant within Hayden Ferry Lakeside; and (iii) discharging Declarant's obligations under this Declaration.

(b) *Easement for Access.* Declarant, the Association, their agents, employees, and assigns, and each Owner and occupant of a Unit, their guests and invitees, are hereby granted nonexclusive easements of ingress and egress for pedestrian access over, through, and across sidewalks, paths, walks, lanes, and other rights-of-way serving the Units; and for vehicular access over, through, and across such portions of the Common Elements as from time to time may be paved and intended for such purposes, as necessary to provide reasonable access to and from the public ways.

In addition to the above, the East Declaration grants to the Joint Committee and the owners and occupants of condominium units within the property made subject to the East Declaration easements of use and access over Lakeside Drive (the access road traversing through Bridgeview from the "Main Access Road," as defined in the Master Declaration), the underground parking facilities within Bridgeview, and such other por-

tions of the "Area of Joint Committee Responsibility" (as described in the East Declaration) as are located within Bridgeview, including, without limitation, outdoor recreational facilities located within Bridgeview.

The Joint Committee is authorized to regulate the use of the "Area of Joint Committee Responsibility" (as described in the East Declaration), including any portions as are located within Bridgeview, in the manner provided in the East Declaration.

(c) *Easement for Encroachment.* An easement for encroachment shall exist for any Unit or Common Element which now or hereafter encroaches on any other Unit or Common Element as a result of settlement or movement of any part of Bridgeview or improvements contiguous thereto or as a result of minor inaccuracies in building or rebuilding. Such easement shall continue until such encroachment no longer exists.

(d) *Utility Easements.* Declarant hereby reserves for itself, its affiliates, and the Association, their grantees, successors, and assigns, easements over the Common Elements and the Units, as necessary for installation, maintenance, and repair of utilities to serve Bridgeview.

(e) *Owner Maintenance Easements over the Common Elements.* Each Owner is hereby granted a non-exclusive easement over the Common Elements as necessary for the use, maintenance, repair, and replacement of plumbing, heating, electrical, natural gas, and air conditioning systems (including furnaces, compressors, components, pipes, wires, conduits, ducts, and the like) which are a part of or otherwise serve only such Owner's Unit and which pass across or through a portion of the Common Elements.

(f) *Central Telecommunication, Receiving, and Distribution System.* Declarant reserves for itself, its affiliates, successors, and assignees, the exclusive and perpetual right and easement to operate within Bridgeview, and to service the buildings and the structures within any Unit, a central telecommunication (including cable television, satellite television, and security monitoring) receiving and distribution system, including conduits, wires, amplifiers, towers, antennae, and other related apparatus and equipment (the "Community Systems") as Declarant, in its discretion, deems appropriate. Such exclusive and perpetual right shall include, without limitation, Declarant's right to select and contract with companies licensed to provide telecommunications and cable and satellite television service in the area, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Declarant may require that the Board enter into a bulk rate service agreement for the provision of Community Systems to all Units as a Common Expense. If particular services or benefits are provided to particular Owners or Units at their request, the benefited Owner(s) shall pay the service provider directly for such services or the Association may assess the costs as a Specific Assessment, as appropriate.

In recognition of the fact that interruptions in cable and satellite television and other Community Systems services will occur from time to time, neither Declarant nor any of Declarant's successors or assigns shall in any manner be liable for, and no Community System user shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in Community Systems services, re-

gardless of whether or not such interruption is caused by reasons within the service provider's control.

(g) *Easement to Inspect and Right to Correct.* Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Common Elements and the Units, including the right to perform any renovations, warranty work, or modifications to the Units. Declarant, its employees, agents, contractors, and assigns shall have a nonexclusive easement of access throughout the Common Elements and the Units to the extent reasonably necessary to exercise such right. The Person exercising this easement shall promptly repair, and pay for, any resulting damage. The rights created by this subparagraph shall not create any liability to the Person exercising the easement for any consequential damages the Owner or occupant of a Unit may incur.

19. **Condemnation.**

If any portion of the Common Elements is taken by eminent domain, the award therefor shall be allocated among the Units and the Owners thereof in proportion to their respective Allocated Interests in the Common Elements, except that any portion of the award attributable to the taking of any permanently assigned Limited Common Element shall be allocated to the Owner of the Unit to which that Limited Common Element was assigned or, if assigned to more than one Unit, among the Owners of such Units in equal shares.

If one or more Units or a portion of any Unit is taken by eminent domain, the award for such taking shall include just compensation to the Owner for his Unit or any portion of such Unit taken, as well as the percentage of the Unit's Al-

located Interest, which Allocated Interest shall be reallocated among the Units or remaining Units in the manner described in Paragraph 7.

Each holder of a first Mortgage on a Unit shall be entitled to written notice of any such condemnation proceedings, and nothing in these documents shall be construed to give priority to any Owner in the distribution of proceeds to such Unit.

20. Amendment.

Don't ever take a fence down until you know why it was put up. Robert Frost

(a) *General.* Except as to those matters specified in Section 33-1227(A) of the Act, or where otherwise specifically provided herein, this Declaration, including the Plat and Plans, may be amended only by the affirmative vote or agreement of Owners representing at least 67% of the total votes in the Association and the approval of the Master Association, to the extent required under the Master Declaration. In addition, during the Declarant Control Period, Declarant's consent also is required for any amendment to this Declaration.

No action to challenge the validity of an amendment adopted by the Association pursuant to Section 33-1227 of the Act may be brought more than one year after the amendment is recorded.

In addition to the above, and to the extent Arizona law permits, Declarant may amend this Declaration at any time and from time to time if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage on the Units. No amendment adopted pursuant to this paragraph may adversely affect the title to any Unit unless the Owner shall consent thereto in writing.

(b) *Change of Allocated Interests.* Except as to any modification or amendment Declarant executes pursuant to any Special Declarant Right, the Allocated Interests set out on Exhibit "C" shall not be modified or amended without the written consent of all the Owners, and the written assent, as well, of all holders of first Mortgages. Such change shall not be effective until the same is duly recorded by an instrument acknowledged by all such Persons and mortgages and recorded.

(c) *Amending Declarant Rights.* No amendment which purports to or does increase or otherwise modify the obligations the Declaration imposes on Declarant or decrease, limit, or otherwise modify rights the Declaration grants to Declarant, including the Special Declarant Rights, shall be valid without Declarant's express, written consent.

(d) *Recording of Amendment.* To be effective, an amendment to this Declaration must be recorded. Amendments to this Declaration, except as to Declarant's exercise of a Development Right by Declarant, and other than as may otherwise be expressly provided in this Declaration or the Act, shall be prepared, executed, recorded, and certified by an officer of the Association designated for that purpose or, in the absence of any designation, by the President of the Association.

(e) *Termination of the Condominium.* Bridgeview shall not be terminated except by agreement of Owners representing at least 80% of the total votes in the Association, together with the written, acknowledged consent of 50% of the Interested Mortgagees. Such termination agreement shall be effective when duly recorded. An agreement to terminate must be evidenced by the execution of a termination agreement or ratification thereof, in the same manner as a deed, by the requisite number of Owners, and the termi-

nation agreement must specify a date after which the agreement will be void, unless it is recorded before that date. Upon such recording:

(i) The Common Elements shall be deemed to be owned in common by the Owners as tenants-in-common;

(ii) The undivided interest in the property owned in common which is appurtenant to each ownership interest in a Unit shall be the Allocated Interest of each Owner as set forth on Exhibit "C";

(iii) Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the Allocated Interest of the Owner in the property as provided herein; and

(iv) Bridgeview shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale shall be considered as one fund and shall be divided among all the Owners in a percentage equal to the Allocated Interest of each Owner in Bridgeview, after first taking out of the respective shares of the Owners all liens on the undivided interest property.

21. Miscellaneous Provisions.

(a) *Compliance; Right of Action.* Every Owner and occupant of any Unit, and any guest and invitee of any Owner or occupant, shall be subject to and shall comply with the Condominium Documents and the Association rules. The Association, Declarant, and any aggrieved Owner shall have a right of action against any Owner or occupant of a Unit, or against the Association, upon the failure of such Owner, occupant, guest, invitee, or the Association to comply with the Condominium Documents, Association rules, or decisions of the Association.

Each Owner shall be responsible for, and may be sanctioned for, all violations of the Condominium Documents by the occupants, tenants, guests, or invitees to their Units, and for any damage to the Common Elements that such Persons may cause.

The termination of membership in the Association shall not relieve or release any former Owner from any liability incurred under, or in any way connected with, such Owner's obligations under the Condominium Documents during his or her period of ownership.

(b) *Rights to Use Names.* The names "Bridgeview," "Bridgeview at Hayden Ferry Lakeside," "Hayden Ferry Lakeside," and all similar or derivative names, along with all associated trademarks and logos, are the proprietary trade names and service marks of Declarant or its affiliates. No Person shall use such trade names or service marks for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, or in any logo or depiction without the prior written consent of the Person who owns such mark. In addition, any name or "logo" to be used in connection with or displayed on any Unit, and any sales or other materials or documentation related to the use of the Unit, shall be subject to Declarant's prior written consent. Such approval may be given or withheld in Declarant's discretion and may be subject to such terms and conditions as Declarant deems appropriate.

Notwithstanding the above, Owners may use the name "Bridgeview" and "Bridgeview at Hayden Ferry Lakeside" where such term is used solely to specify that particular property is located within Bridgeview (subject, however, to such terms and conditions as Declarant may impose in order to protect its trade names and service marks) and the Association may use the

words "Bridgeview" and "Bridgeview at Hayden Ferry Lakeside" in its name. Other use by the Association or any Owner is subject to the restrictions set out in this paragraph.

(c) *Exclusion of Declarant's Other Properties.* By accepting a deed to a Unit, each Owner specifically acknowledges that nothing contained in this Declaration shall in any way, either expressly or by implication, restrict, limit, or otherwise affect the use or disposition by Declarant or any affiliate of Declarant of any property either of them owns, whether contained within or contiguous to Bridgeview. Declarant and its affiliates shall have full, free, and unrestricted use of its other lands, notwithstanding any incompatibility of such use with restrictions this Declaration imposes upon the Units. By accepting a deed to a Unit, each Owner, specifically and expressly disclaims any reciprocal negative easement in any property Declarant or any Declarant affiliate owns.

(d) *Association as Attorney-in-Fact for Owners.* Each Owner, by acceptance of a deed to a Unit, appoints the Association as such Owner's attorney-in-fact to represent the Owners in any condemnation proceedings relating to any portion of Bridgeview, in filing and adjusting any insurance claims relating to casualty damage or loss to any structures or improvements comprising Bridgeview, and in any negotiations, settlements, or agreements relating to any such condemnation proceeding or insurance claim.

(e) *Severability.* Invalidation of any provision of this Declaration, by judgment, court order, or otherwise, in one circumstance shall in no way affect the application of such provision to other circumstances nor affect any other provision(s), which shall all remain in full force and effect.

(f) *Exhibits.* The attached Exhibits "A," "B," and "C" are incorporated into this Declaration by reference and may be amended in accordance with the provisions of this Declaration and the Act. Exhibit "D" is attached for informational purposes and may be amended as provided therein.

(g) *Community Facilities District.* Bridgeview is located within the Rio Salado Community Facilities District ("CFD"), which was created to finance the construction and maintenance of the Tempe Town Lake in accordance with the applicable provisions of Arizona law. Each Unit is allocated a pro rata share of assessments by the CFD and/or *ad valorem* taxes for CFD operation and maintenance costs, which assessments and/or taxes are the responsibility of the Unit Owner.

(h) *Applicable Law.* The Condominium Documents shall be governed by the laws of the State of Arizona. The Condominium Documents are intended to comply with the Act, the Arizona Nonprofit Corporations Act, and other applicable laws in effect at the time the documents are executed and recorded. However, laws change from time to time, and Owners are hereby notified that changes in the law may supersede provisions in the Condominium Documents from time to time.

22. Resolving Disputes.

Problems cannot be solved at the same level of awareness that created them. Albert Einstein

(a) *Agreement to Encourage Resolution of Disputes Without Litigation.* Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to

this Declaration who agrees to submit to this Chapter (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving Bridgeview without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described below and to resolve such Claims by the alternative dispute resolution procedures set forth in Paragraph 22(b).

(i) *Claims.* As used in this Paragraph, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

(A) the interpretation, application, or enforcement of the Condominium Documents; or

(B) the rights, obligations, and duties of any Bound Party under the Condominium Documents.

(ii) *Exempt Actions.* Notwithstanding the above, the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Paragraph 22(b):

(A) any suit by the Association to collect assessments or other amounts due from any Owner;

(B) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration relating to creation and maintenance of community standards;

(C) any suit that does not include Declarant or the Association as a party, if such

suit asserts a Claim that would constitute a cause of action independent of the Condominium Documents;

(D) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Paragraph 22(b);

(E) any action between Declarant and any other Bound Party, whether such action is brought individually or as a part of a class or other consolidated action, which action is subject to arbitration requirements or other alternative dispute resolution procedures under a contractual agreement between Declarant and such other Bound Party; provided, this exemption shall apply only to the specific action between Declarant and the Bound Party who is a party to the contract; and

(F) any action other than the filing of a suit or claim in or with a court of law, administrative tribunal, or alternative dispute agency to enforce the provisions of the Condominium Documents, specifically including, but not limited to, entering into negotiations or settlement discussions, and the initiation of enforcement measures such as the sending of a demand letter, the levying of fines, the exercise of self-help, and/or the filing of a lien for fines or other charges, as provided herein.

(b) *Dispute Resolution Procedures.*

(i) *Notice.* The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

(A) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(B) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(C) the Claimant's proposed resolution or remedy; and

(D) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(ii) *Negotiation.* The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

If the Claim relates to or otherwise alleges a defect in the construction or condition of a Unit or the Common Elements, the Claimant must notify Respondent by certified mail, return receipt requested, and give the Respondent a reasonable opportunity to inspect the property that is the subject of the Claim. In the course of such inspection, the Respondent may use any reasonable measures, including testing, to determine the nature and cause of alleged defects and the nature and extent of any repairs or replacements necessary to remedy the alleged defects.

The Claimant shall make the property available for inspection no later than 10 days after receipt of the Respondent's request for an inspection. If the Respondent inspects the property, Respondent shall thereafter have a reasonable period of time within which to repair or replace

any alleged defects (and Claimant shall make the property available for such repair or replacement activities from time to time during such period as the Respondent may reasonably request), prior to bringing or initiating any further action under this Paragraph 22. The Claimant may initiate mediation proceedings under sub-paragraph (iii) below only after the notice and inspection requirements under this paragraph have been complied with.

(iii) *Mediation.* If the parties have not resolved the Claim (A) within 30 days of the date of the Notice (or within such other agreed upon period) for any Claim which does not allege a defect in the construction or condition of a Unit or the Common Elements, or (B) after Respondent has had a reasonable period of time (in any case, not less than 90 days after the Respondent's receipt of Notice) within which to repair or replace any alleged defects for any Claim that alleges a defect in the construction or condition of a Unit or the Common Elements, the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the City of Tempe or Maricopa County. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of

termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to initiate arbitration proceedings on the Claim as provided in subparagraph (v).

Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall pay an equal share of the mediator's fees.

(iv) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this Paragraph 22(b). In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

(v) Final and Binding Arbitration. Any Claim that is not exempt under subparagraph (a)(ii) and is not settled through negotiation and/or mediation shall be resolved by final and binding arbitration in accordance with this subparagraph (v) and shall not be submitted as a lawsuit or other proceeding in any Arizona state court or federal court. This subparagraph (v) is an agreement to arbitrate, a waiver of the right to seek remedies in court, and a waiver of a right to a jury trial, and is specifically enforceable under Arizona law.

Prior to commencing arbitration under this subparagraph (v), the parties shall engage in the procedures required under subparagraphs (i), (ii), and (iii) above.

Any party bringing an arbitration action under this subparagraph shall have until expiration of the applicable statute of limitations under Arizona law (as would apply to the same claim being brought in an Arizona or federal court) to submit the dispute for arbitration.

Arbitration under this subparagraph shall be conducted before a mutually agreed upon arbitrator in Maricopa County, in accordance with the Uniform Rules of Procedure for arbitration in the State of Arizona (or, if none, such American Arbitration Association rules as shall be most applicable). In the event that the parties are unable to agree on an arbitrator, the parties shall promptly request the American Arbitration Association to appoint an arbitrator from its pool of retired judges.

The arbitrator shall not be required to include factual findings or legal reasoning in his or her ruling. The arbitrator shall, however, be permitted to award the prevailing party attorneys fees pursuant to applicable state law. Arbitration shall be final and binding on the parties and judgment upon an award pursuant to an arbitration required under this subparagraph may be entered in any court of competent jurisdiction to the fullest extent permitted under Arizona law.

(c) Right to Notice of Design or Construction Claims. No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Bridgeview in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant has been first notified in writing and given an

opportunity to meet with the property Owner and conduct an inspection.

(d) Initiation of Litigation by the Association.

(i) Owner Approval. The Association shall not initiate any arbitration, judicial, or administrative proceeding unless first approved by a vote of Owners entitled to cast at least 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

(A) initiated during the Declarant Control Period;

(B) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;

(C) initiated to challenge ad valorem taxation or condemnation proceedings;

(D) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract with the Association for services or supplies; or

(E) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

(ii) Notice. Prior to initiating any arbitration, judicial, administrative, or other legal proceeding against Declarant, the Association shall provide written notice to the Owners which notice shall include, without limitation:

(A) a description of the Association's claim against Declarant;

(B) a description of any attempts by Declarant to resolve the claim or correct any

construction or other defects being alleged in the claim;

(C) the name, background, and fee arrangement of the attorney retained by the Association to represent it in such proceeding, and an estimate of the amount of fees to be incurred and the amount of time necessary to resolve the claim through such proceeding; and

(D) an affirmative statement from the Board that the directors believe the proposed action is in the Association's best interests.

(e) Use of Proceeds. Any proceeds received by the Association or any Owner from the settlement or other resolution of litigation, arbitration, or other proceedings against Declarant, any affiliate of Declarant, or any builder alleging defects in the initial construction of any portion of Bridgeview shall be applied to repair, replace, or otherwise remedy the defects claimed in such action. If the Association has funds remaining after completing such repair, replacement, or other work required to remedy the defects in question, such proceeds shall be placed in the Association's capital reserve account.

(f) Amending Paragraph 22. Paragraph 22 shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings under Paragraph 22(c). In addition, any amendment to Paragraph 22 shall require Declarant's written consent.

23. Relationship to Hayden Ferry Lakeside Community.

(a) The Hayden Ferry Lakeside Community; The Master Association and the Joint Committee. Bridgeview is a component of the larger community known as Hayden Ferry Lakeside. The Association, and all Owners, lessees,

and occupants of Units shall be subject to the Master Declaration and applicable rules and regulations governing use of property within Hayden Ferry Lakeside by the Master Association. Bridgeview also is subject to the East Declaration and applicable rules and regulations governing use of property subject to the ownership and control of the Joint Committee.

The Association covenants and agrees to pay all assessments levied against Bridgeview by the Master Association and Joint Committee, respectively.

The Association shall be an "Owner," as defined in the Master Declaration, and a "Condominium Association," as defined in the East Declaration.

(b) *Supremacy of Master Declaration and East Declaration.* In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to the Condominium Documents, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject, with each Owner, to all of the obligations imposed upon it pursuant to the Master Declaration, the by-laws of the Master Association, the East Declaration, and the by-laws of the Joint Committee. The Association and all committees thereof shall also be subject to all superior rights and powers which have been conferred upon the Master Association and the Joint Committee pursuant to the Master Declaration and the East Declaration, respectively. The Association shall take no action in derogation of the rights of the Master Association, the Joint Committee, or the "Declarant" or "Founder" under such documents.

(c) *Easement to the Master Association and Joint Committee.* The officers, agents, employees, and independent contractors of the Master Association and the Joint Committee,

respectively, shall have a non-exclusive easement to enter upon Bridgeview for the purpose of exercising the authority and performing or satisfying their respective duties and obligations under the Master Declaration and the East Declaration.

(d) *Cumulative Effect; Conflict.* The provisions of the Condominium Documents shall be cumulative with the provisions of the Master Declaration and the East Declaration, and the articles of incorporation, by-laws, design guidelines or standards, and rules of the Master Association and Joint Committee, respectively; however, in the event of conflict between or among the provisions of the Condominium Documents and any such documents, the Master Association and Joint Committee documents shall be superior to the Condominium Documents and the Association's policies and practices. The foregoing priorities shall not prevent enforcement by the Association of provisions or rules which are stricter than those contained in or adopted pursuant to the Master Declaration or the East Declaration, respectively.

(e) *Construction Within Community.* Bridgeview is a component of the larger Hayden Ferry Lakeside community, and construction of other components within the community may continue after construction within Bridgeview has been completed. Such construction activity may occur at all hours of the day and night and, at times, may cause inconvenience for residents, including, but not limited to, noise, dust, and vibration. Neither the Association, Declarant, the Master Association, nor the Joint Committee shall be liable for any noise or sound; noxious fumes, gases, or odors; dust, dirt or ash; temporary interruption of utilities; and/or other discomfort or inconvenience caused by construction activities within Hayden Ferry.

IN WITNESS WHEREOF, the undersigned Declarant hereby executes this Amended and Restated Declaration by and through its authorized representatives on the day and year first above written.

**BV AT HAYDEN FERRY LAKESIDE, LLC,
an Arizona limited liability company**

By: *[Signature]*

Name: JAMES R. ADAIR

Its: GM

STATE OF ARIZONA)

)ss:

MARICOPA COUNTY)

On this 21 day of November, 2005, before me, the undersigned Notary Public in and for said county and state, personally appeared James R. Adair, personally known to me or proved to me on the basis of satisfactory evidence to be the General Manager of BV at Hayden Ferry Lakeside, LLC, an Arizona limited liability company, and acknowledged that he/she, as such officer and being authorized so to do, executed the foregoing instrument for the purposes therein contained.

Witness my hand and official seal.



[Notary Seal]

[Signature], Notary Public
Resident of Maricopa County, Arizona
My Commission Expires: 4-30-09

EXHIBIT "A"

Legal Description of Property Submitted to the Declaration

A parcel of land situated in a portion of the Northwest quarter of Section 15, Township 1 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at a 5/8 inch rebar found at the center of said Section 15, from which a Maricopa County aluminum cap located at the West quarter corner of said Section 15 bears South 89 degrees 03 minutes 17 seconds West (basis of bearing), a distance of 2,629.81 feet;

Thence North 00 degrees 11 minutes 29 seconds East, along the East line of said Northwest quarter, a distance of 863.51 feet to the South line of the Flood Control Maintenance Easement recorded in Book 365 of Maps, page 34, Maricopa County Records;

Thence continuing along the said South line, North 80 degrees 25 minutes 33 seconds West, a distance of 83.34 feet;

Thence continuing along the said South line, North 80 degrees 43 minutes 37 seconds West, a distance of 200.82 feet;

Thence continuing along the said South line, North 84 degrees 54 minutes 20 seconds West, a distance of 83.38 feet to the POINT OF BEGINNING;

Thence South 10 degrees 14 minutes 50 seconds West, a distance of 190.03 feet;

Thence South 05 degrees 49 minutes 20 seconds West, a distance of 188.81 feet to a point on the arc of a non-tangent curve concave to the South, a radial line of said curve through said point having a bearing of North 04 degrees 07 minutes 26 seconds East;

Thence Westerly along the arc of said curve, to the left, having a radius of 801.00 feet; with a chord of North 86 degrees 53 minutes 43 seconds West, 28.76 feet, and a central angle of 02 degrees 03 minutes 26 seconds for an arc distance of 28.76 feet to a point on the arc of a non-tangent curve concave to the North, a radial line of said curve through said point having a bearing of South 00 degrees 36 minutes 39 seconds East;

Thence Westerly along the arc of said curve, to the right, having a radius of 185.52 feet, with a chord of North 85 degrees 37 minutes 40 seconds West, 32.23 feet, and a central angle of 09 degrees 57 minutes 58 seconds for an arc distance of 32.27 feet to a point on the arc of a non-tangent curve concave to the South, a radial line of said curve through said point having a bearing of North 07 degrees 54 minutes 17 seconds East;

Thence Westerly along the arc of said curve, to the left, having a radius of 411.58 feet, with a chord of North 88 degrees 39 minutes 46 seconds West, 94.15 feet, and a central angel of 13 degrees 08 minutes 06 seconds for an arc distance of 94.35 feet to a point on the arc of a non-tangent curve concave to the South,

a radial line of said curve through said point having a bearing of North 06 degrees 53 minutes 35 seconds West;

Thence Westerly along the arc of said curve, to the left, having a radius of 811.00 feet, with a chord of South 81 degrees 52 minutes 02 seconds West, 34.86 feet, and a central angle of 02 degrees 27 minutes 48 seconds for an arc distance of 34.87 feet to a non-tangent line;

Thence North 01 degrees 16 minutes 33 seconds East, a distance of 165.53 feet to the Southeast corner of that property described on the plat of EDGEWATER AT HAYDEN FERRY LAKESIDE recorded in Book 701 of Maps, page 37, Maricopa County Records;

Thence continuing North 01 degrees 16 minutes 33 seconds East, a distance of 219.96 feet to the Northeast corner of said EDGEWATER AT HAYDEN FERRY LAKESIDE, said corner also being on the said South line of Flood Control and Maintenance Easement;

Thence South 89 degrees 13 minutes 38 seconds East, along said South line, a distance of 119.14 feet;

Thence South 84 degrees 54 minutes 20 seconds East, along said South line, a distance of 115.19 feet to the POINT OF BEGINNING.

EXHIBIT "B"

Plat and Plans

The Plat and Plans for Bridgeview are recorded in the Official Records of Maricopa County, Arizona, as follows and are incorporated into the Declaration by reference as if attached hereto:

Condominium Plat Book	Pages

EXHIBIT "C"

**Percentage Share of Allocated Interest in Common Elements
and Liability for Common Expenses**

Unit Designation (Identifying Number)	Allocated Finished Floor Area Square Footage*	Allocated Interest (stated as a percentage)
101	1,256	0.625
102	1,708	0.850
104	1,508	0.751
105	2,049	1.020
106	1,952	0.972
107	1,850	0.921
108	1,779	0.886
109	1,422	0.708
111	1,708	0.850
112	1,247	0.621
201	1,794	0.893
202	1,168	0.581
203	2,317	1.153
204	1,980	0.986
205	2,004	0.998
206	2,010	1.000
207	1,978	0.985
208	1,824	0.908
209	1,818	0.905
210	2,317	1.153
211	1,168	0.581
212	1,794	0.893
301	1,802	0.897
302	1,168	0.581
303	2,320	1.155
304	1,761	0.877
305	1,715	0.854
306	1,718	0.855
307	1,686	0.839
308	1,535	0.764
309	1,560	0.777
310	2,320	1.155
311	1,168	0.581
312	1,802	0.897
401	1,810	0.901
402	1,168	0.581
403	2,320	1.155
404	1,761	0.877
405	1,715	0.854
406	1,718	0.855
407	1,686	0.839
408	1,535	0.764
409	1,560	0.777
410	2,320	1.155

Exhibit "C"

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Unit Designation (Identifying Number)	Allocated Finished Floor Area Square Footage*	Allocated Interest (stated as a percentage)
411	1,168	0.581
412	1,810	0.901
501	1,817	0.904
502	1,168	0.581
503	2,320	1.155
504	1,761	0.877
505	1,715	0.854
506	1,718	0.855
507	1,686	0.839
508	1,535	0.764
509	1,600	0.796
510	2,320	1.155
511	1,168	0.581
512	1,817	0.904
601	1,825	0.908
602	1,168	0.581
603	2,320	1.155
604	2,785	1.387
606	2,381	1.185
607	2,169	1.080
609	2,624	1.306
610	2,320	1.155
611	1,168	0.581
612	1,825	0.908
701	1,832	0.912
702	1,168	0.581
703	2,629	1.309
704	3,607	1.795
709	3,217	1.601
710	2,620	1.304
711	1,168	0.581
712	1,832	0.912
801	1,840	0.916
802	1,168	0.581
803	2,411	1.200
804	2,411	1.200
805	1,168	0.581
806	1,840	0.916
901	1,848	0.920
902	1,168	0.581
903	2,411	1.200
904	2,411	1.200
905	1,168	0.581
906	1,848	0.920
1001	1,855	0.923
1002	1,168	0.581
1003	2,411	1.200
1004	2,411	1.200
1005	1,168	0.581

Unit Designation (Identifying Number)	Allocated Finished Floor Area Square Footage*	Allocated Interest (stated as a percentage)
1006	1,855	0.923
1101	1,863	0.927
1102	1,168	0.581
1103	2,411	1.200
1104	2,411	1.200
1105	1,168	0.581
1106	1,863	0.927
1201	4,280	2.130
1202	4,924	2.451
1205	4,924	2.451
1206	4,280	2.130
TOTAL	200,912	100.00%

*The floor area figures for each Unit shown above are approximations based upon the condition of each Unit at the time of recording this Declaration and no representation is made as to the accuracy of such floor area figures. There shall be no obligation to investigate, recalculate, or revise such floor area figures as of the date of any reallocation. Finished floor area is based upon the air-conditioned floor area within each Unit. All other floor area within the unit is considered unfinished.

EXHIBIT "D"

By-Laws of Bridgeview at Hayden Ferry Lakeside Condominium Association, Inc.