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FIRST AMENDMENT

TO

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS

86 406353

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, is made on the date hereinafter set forth by 77 EAST MISSOURI TOWNHOUSES ASSOCIATION, an Arizona not-for-profit corporation;

W I T N E S S E T H:

WHEREAS, the original Declaration of Covenants, Conditions and Restrictions for the real property described herein was recorded on May 11, 1972, in the office of the County Recorder of Maricopa County, Arizona, in Docket 9428, pages 831-847 inclusive ("Declaration"); and

WHEREAS, pursuant to Section 7 of ARTICLE XV of the Declaration, the owners of not less than ninety percent (90%) of the lots of that certain real property described herein may amend said Declaration prior to the expiration of twenty (20) years of the date of said Declaration; and

WHEREAS, the undersigned are the owners of not less than ninety percent (90%) of the lots of that certain real property (the "premises") located in the County of Maricopa, State of Arizona, which is more particularly described as:

> Lots 1 to 17, inclusive, lots 29 to 31, inclusive, and lots 37 to 81, inclusive, and Tracts A to N, inclusive, 77 EAST MISSOURI, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona in Book 147 of Maps, Page 50. (PHASE I);
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> AND:
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> Lots 18 to 28, inclusive, lots 32 to 36, inclusive, and Tracts A, H, and I, 77 EAST MISSOURI, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona in Book 147 of Maps, Page 50. (PHASE II).

WHEREAS, the undersigned desire to amend said Declaration in its entirety;

NOW, THEREFORE, the Declaration is hereby amended to read as follows:

This Declaration hereby establishes a plan for the individual ownership of real property estates, consisting of a lot and the improvements contained thereon, and the ownership by a not-for-profit corporation comprised of all owners of townhouses, of all of the remaining property, both real and personal.

All of the properties described above shall be held, sold and conveyed subject to the following covenants, conditions, charges, liens, restrictions, easements and reservations (hereinafter collectively sometimes called "restrictions"), all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property, and all of which are hereby declared to be for the benefit of all of the property described herein and the owners thereof, their heirs, successors, grantees and assigns. These restrictions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties of any part thereof, and shall inure to the benefit of each owner thereof.

Said restrictions establish and impose a general plan for the improvement and development of said property described herein and the adoption and establishment of covenants, conditions, charges, liens, easements and restrictions upon said land and upon any and all townhouse units constructed thereon, and upon the use, occupancy and enjoyment thereof. Every conveyance of any of said townhouses, or property or portion thereof shall be and is subject to these restrictions as follows:

ARTICLE I

DEFINITIONS

Section 1. Association. The term "Association" shall mean and refer to 77 EAST MISSOURI TOWNHOUSES ASSOCIATION, an Arizona not-for-profit corporation, its successors and assigns.

Section 2. Board of Directors. The term "Board of Directors" shall mean and refer to the Board of Directors of the Association elected pursuant to the Bylaws of the Association.

Section 3. Common Area or Common Elements. The terms "common area" and "common elements" shall be synonymous and shall mean all property owned by the Association for the common use and enjoyment of the members of the Association, including, but not limited to, all of the above referred to premises except the land specifically designated as a "lot" or "unit" on the above referred to plat of record and all recorded replats thereof. The common elements shall also include all recreational facilities including swimming pools, community and commercial facilities, if any, pumps, trees, pavements, streets, pipes, wires, conduits and other public utility lines.

Section 4. Exterior Wall. The term "exterior wall" shall mean and refer to the front and rear walls of each townhouse and any side wall of a townhouse which is not a party wall.

Section 5. Lot, Unit, Townhouse. The terms "lot" "unit" and "townhouse" shall be synonymous and shall mean and refer to a separately designated and legally described freehold estate consisting of any plot of land and the improvements thereon shown upon any recorded subdivision map of the properties with the exception of the common area.

Section 6. Member. The term "member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 7. Owner. The term "owner" shall mean and refer to the record owners, whether one or more persons or entities, of equitable title (or legal title if equitable title has merged) of any lot which is part of the properties.

Section 8. Party Wall. The term "party wall" shall mean and refer to each wall, including patio walls, which is constructed as a part of the original construction of the townhouse multi-family structure, any part of which is placed on the dividing line between separate townhouse units.

Section 9. Premises or Properties. The terms "premises" or "properties" shall be synonymous and shall mean and refer to that certain real property hereinabove described.

ARTICLE II

MEMBERSHIP

Section 1. Qualification. Membership in the Association shall be limited to owners of townhouses constructed on the premises. An owner of a townhouse shall automatically, upon becoming the owner of a townhouse, be a member of the Association, and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease. Ownership of a lot shall be the sole qualification and criteria for membership.

Section 2. Transfer. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of such townhouse and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any prohibited transfer of a membership in the Association shall be void and shall not be reflected upon the books and records of the Association. In the event the owner of any townhouse should fail or refuse to transfer the membership registered in his name to the purchaser of such townhouse, the Association shall have the right

to record the transfer upon the books of the Association and issue a new membership in the name of the purchaser and thereupon the membership outstanding in the name of the seller shall be null and void as though the same had been surrendered.

Section 3. Number of Members. There shall be no more than one membership for each townhouse, which membership shall be subject to all of the provisions of the Association's Articles of Incorporation, Bylaws, management agreement, and this Declaration, as now in effect or as may hereafter be amended.

Section 4. Voting Rights. Each member of the Association shall be entitled to one vote for each lot owned by said member. In the event any owner shall be in arrears in the payment of any amounts due under any of the provisions of this Declaration for a period of fifteen (15) days, or shall be in default in the performance of any of the terms of this Declaration for a period of fifteen (15) days, said unit owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied.

ARTICLE III

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the common elements, including the private street shown on the recorded subdivision plat, and such easement shall be appurtenant to and shall pass with the title to each and every townhouse. It is expressly acknowledged and agreed by all parties concerned that this Article is for the mutual benefit of all owners and of the Association, and is necessary for the protection of said owners. It is understood and agreed that the rights of use and enjoyment of the common elements may be exercised by any person legally in possession of a townhouse in a manner not in violation of the provisions hereof, but nothing herein shall be deemed to alter or amend the definition of "owner" under Article I, Section 7 hereof, or to affect the provisions of Article II hereof with respect to membership or voting rights. Such right and easement of enjoyment shall be subject to reasonable rules and regulations as from time to time are promulgated by the Board of Directors, which may include, but shall not be limited to:

(a) The right of the Association to limit the number of guests of members;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common areas;

(c) The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving the common areas and facilities and in connection therewith, to mortgage said property (the common areas). The rights of such mortgagee in said properties shall be subordinate to the rights of the owners hereunder; and

(d) The right of the Association to dedicate or transfer all or any part of the common areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes in the Association agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance.

Section 2. Delegation of Use. Any member may delegate his right of enjoyment to the common areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. However, such delegation of an owner's right of enjoyment to the common areas and facilities to a tenant or contract purchaser shall not be effective unless and until such owner has complied with the notice provisions of Article IX, Section 9, hereinbelow.

ARTICLE IV

MAINTENANCE

Section 1. Party Walls. The rights and duties of the owners of townhouses with respect to the maintenance and repair of party walls shall be governed by the following:

(a) In the event any party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining owner of the full use and enjoyment of such, said one adjoining owner shall forthwith proceed to rebuild and repair such party wall, without cost to the other adjoining owner, to as good condition as existed prior to such damage or destruction and approved of by a majority of the Architectural Control Committee.

(b) In the event any party wall is damaged or destroyed other than by the act of one of the adjoining owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event both such adjoining owners shall proceed forthwith to rebuild or repair the same, at their joint and equal expense, to as good

condition as existed prior to such damage or destruction in their mutual opinion.

(c) Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes any party wall to be exposed to the elements shall furnish the necessary protection against such elements and shall bear the entire cost thereof.

(d) The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

(e) In addition to meeting the other requirements of this Declaration and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to or rebuild his townhouse in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining owner and the Architectural Control Committee.

(f) In the event a dispute shall arise between owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such owners addressed to the Board of Directors, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Board of Directors. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by each of the owners and the third by the two so chosen, or if the two arbitrators cannot agree as to the selection of the third arbitrator within five days, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

Section 2. Exterior Walls. The Association shall be responsible for the maintenance, upkeep, repair, and painting of the exterior walls of the townhouses, except in the case of damage or destruction through the act of any owner, any of his guests or tenants or members of his family, or licensees or agents, in which case the provisions of Article VII shall apply.

Section 3. Patios and Roofs. Maintenance, upkeep and repair of the patios and townhouse roofs located on the lots shall be the sole responsibility of the individual owners thereof and not in any manner the responsibility of the Association.

Section 4. Driveways. Repair and replacement of the driveways located on each lot shall be the responsibility of the Association and the individual owners shall not be responsible for such repair or replacement.

Section 5. Interiors. Each owner shall be responsible for the repair and maintenance of the interior of his townhouse and for the upkeep and maintenance of all other areas, features or parts of his townhouse and property not otherwise required to be maintained by the Association by this Declaration. All fixtures and equipment installed within a townhouse unit commencing at a point where the utility lines, pipes, wires, conduits or systems enter the walls of a townhouse unit, shall be maintained and kept in repair by the owner thereof. Termite control shall be the responsibility of the owner. An owner shall do no act nor any work that will impair the structural soundness or integrity of the multi-family building or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other townhouses or their owners.

Section 6. Common Areas. The Association, or its duly delegated representative, shall maintain and otherwise manage all common areas, including, but not limited to the landscaping, parking areas and streets located upon such common areas, and shall maintain and otherwise manage and be responsible for the removal of rubbish from all such common areas. All decisions concerning the extent and nature of the landscaping of the common areas, including the common area in front of each townhouse, shall be made by the Board of Directors, or any committee to which such responsibility is delegated. The Board of Directors shall use a reasonably high standard of care in providing for the repair, management and maintenance of said common areas so that the premises will reflect a high pride of ownership. Any action necessary or appropriate to the proper maintenance and upkeep of the common areas, including, but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representative, as it may deem to be in the best interest of all parties in carrying out the purposes of this Declaration. The powers, rights and duties of the Association and the Board of Directors shall be as contained in this Declaration, and as may be adopted in its Articles of Incorporation and Bylaws not inconsistent herewith.

ARTICLE V

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) the annual assessments or charges, and (2) any

special assessments, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees shall also be the personal obligation of the individual who is the owner of such property at the time when such assessment becomes due and payable, but such personal obligation and liability of the owner shall not be deemed to limit or discharge the charge on the land and continuing lien upon the property against which such assessment is made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the properties and in particular for the improvement and maintenance, in the manner set forth herein, of the properties, services and facilities devoted to such purpose.

Section 3. Annual Assessment. The owner of each townhouse, for themselves, their heirs, successors and assigns, further covenant that each owner shall pay, and the townhouse of such owner shall be subject to, an annual assessment as determined by the Board of Directors, which assessment shall represent such townhouse's pro-rata share of the following amounts:

(a) The actual cost to the Association of all taxes, repair, construction, replacement and maintenance of the common elements and such other facilities and activities set forth herein as the responsibility of the Association, including, but not limited to, the repair and upkeep of the landscaping within the common elements such as the mowing of grass and caring for the grounds and sprinkler system;

(b) The actual cost to the Association of the operation of such recreational facilities as may from time to time be provided by the Association;

(c) Such sum as the Board of Directors shall determine to be necessary and prudent for the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein, including fire and other hazard insurance premiums as hereinafter provided, and a liability insurance policy in the face amount of not less than $500,000.00, which policy, in addition to public liability, shall cover repair and construction work to all of the assets and property owned by or to be maintained by the Association. The disposition of liability insurance proceeds shall be made upon majority vote of the Board of Directors but in all events shall be used to and for the purpose of the Association;

(d) Such additional sum as the Board of Directors shall determine to be necessary to meet the primary purposes of the Association;

Section 4. Pro-rata Share. Each townhouse unit's pro-rata share of the annual or any special assessment shall be 1/81 of the total amount of such annual or special assessment established by the Board of Directors pursuant to this Article V.

Section 5. Establishment of Annual Assessment. The amount of the annual assessment shall be established annually by the Board of Directors. In determining the amount to be established as the annual assessment, the Board of Directors may consult with such individuals and review such sources of information as the Board of Directors, in their sole discretion, deems necessary and proper.

Section 6. Notification of Annual Assessment. The Board of Directors, or a designated representative, shall notify each owner of a townhouse of such owner's pro-rata share of the annual assessment and shall collect on a monthly basis from such owner one-twelfth (1/12) of such pro-rata share. Such monthly installments may be paid in advance by any owner at any time.

Section 7. Special Assessments. In addition to any other assessments authorized by this Declaration, the Board of Directors shall have the right and power to establish a special assessment to provide for the construction of additional recreational and other common facilities, for major repair, replacement or maintenance of common elements, or the alteration, demolition or removal of existing recreational and other common facilities as the Board of Directors, in their sole discretion, deems advisable. Any such alteration, demolition, removal, construction, repairs, maintenance, replacement, improvements or additions shall first be authorized by an affirmative vote of three-fourths (3/4) of the Board of Directors at a duly called meeting at which a quorum is present. If the per unit amount of such special assessment exceeds Five Hundred Dollars ($500.00), such special assessment shall also be ratified and approved by the affirmative vote of fifty-one percent (51%) of the members present at a duly called meeting at which a quorum is present. Any such special assessment shall be pro-rated in the manner set forth in Section 4 of this Article V unless such special assessment relates or is assessed to only one unit as elsewhere provided in this Declaration.

Section 8. Covenant to Pay. Each townhouse owner, for himself, his heirs, successors, grantees and assigns, hereby covenants that with respect to any annual or special assessments established in accordance herewith during the period that he is an owner, he will remit such assessments on a monthly basis by the first (1st) of each such month directly to the management company, or to such other party or parties as directed by the Board of Directors.

Section 9. Interest on Delinquent Payment of Assessments. Any assessments which are not paid when due shall be delinquent. Each owner further agrees that each such assessment payment, if not paid within ten (10) days after its due date, shall be subject to a late payment penalty in an amount set and duly published by the Board of Directors from time to time, which penalty shall be reoccurring and cumulative each month until such assessment is paid, and each such delinquent assessment, as well as all late payment penalties, shall become a lien upon said owner's lot until paid.

Section 10. Permissible Methods of Collection. Each owner expressly vests in the Association, or its agents, the right and power to bring all actions against such owner personally for the collection of such assessments as a debt and to enforce the lien established under this Article V by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage of real property, and such owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Article V shall be in favor of the Association and shall be for the benefit of all other owners. The Association, acting on behalf of the owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event any person, corporation or association authorized to enforce the provisions of this Declaration employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the owner, owners and parties against whom the action is brought shall pay all attorneys' fees and costs thereby incurred by said enforcing party in the event said enforcing party prevails in any such action.

Section 11. Unconditional Obligation for Assessments. No owner may exempt himself from liability for his pro-rata portion of any annual or special assessment by waiver of the use or enjoyment of any of the common elements or by the abandonment of his townhouse.

Section 12. Exempt Property. The following property, subject to this Declaration, shall be exempt from the assessments created herein: (i) all properties dedicated to and accepted by a local public authority; and (ii) the common areas. No land or improvement devoted to dwelling use shall be exempt from said assessments under any circumstances.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. Board of Directors. The Board of Directors shall have the right to exercise all rights and powers set forth herein regarding the architectural control of any improvement, replacement, alteration, repair, or repainting of any building, fence, wall, or other structure located on the properties.

Section 2. Architectural Control Committee. The Board of Directors may appoint an Architectural Control Committee ("Committee") consisting of three (3) owners, one of whom shall be a member of the Board of Directors, to exercise the architectural control powers held by the Board of Directors. Such individuals shall serve for a period of one (1) year from the date of their appointment; provided, however, the Board of Directors shall have the power at any time to remove one or more members of such Committee if the Board of Directors determines, in the Board of Director's sole discretion, that such removal is in the best interests of the Association. The Board of Directors shall have the power to appoint successor members of the Committee in the event of the removal, resignation, or expiration of the term of a member of the Committee. The Committee shall act by the decision of a majority of the Committee members.

Section 3. Procedures. The Board of Directors shall establish procedures for the preparation, submission and determination of applications from owners desiring to make any improvement, replacement, addition, alteration, repair, or repainting of any building, fence, wall or other structure. The Board of Directors may, from time to time, and in its sole and absolute discretion, adopt, amend and repeal by a majority vote or written consent, rules and regulations interpreting and implementing the provisions contained in this Article VI. The Committee shall keep and maintain a written record of all actions taken in connection with architectural control and shall provide the Board of Directors with a copy of such written record no less often than annually.

Section 4. Approval. No improvement, replacement, addition, alteration, repair, or repainting of any building, fence, wall, or other structure shall be commenced, erected or maintained on any lot unless the plans and specifications for the same showing all construction details, including the nature, shape, height, materials, floor plans, location and approximate cost thereof shall have been submitted to and approved in writing by the Board of Directors or the Committee, if one has been established. The Board of Directors or the Committee, if one has been established, shall have the right to deny approval of any plans or specifications which are not, in its opinion, suitable or desirable for aesthetic or any other reasons, and shall have the

right to take into consideration the harmony and conformity of the building with the surrounding buildings and the suitability of the same with the surrounding area and the effect of such structure, addition or building as seen from adjacent or neighboring properties.

Section 5. Inaction. In the event the Board of Directors or the Committee, whichever is applicable, fails to approve or disapprove such plans and specifications within thirty (30) days after submission thereof, approval will not be required and the requirements of this Article VI will be deemed to have been fully complied with; provided, however, that in no event shall any lot owner have the right to make any changes or additions to his or her unit which would exceed in any amount the original square footage of the said unit or would otherwise violate any other provision of this Declaration.

Section 6. Limited Effect of Approval. The approval by the Board of Directors or the Committee, as the case may be, of any plans, drawings or specifications shall not be deemed to constitute a waiver of any requirement or restriction imposed by any ordinance of the City of Phoenix or of any other law, or of any other requirement or restriction imposed by this Declaration, or of any right of the Board of Directors or Committee to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

Section 7. Nonliability. Neither the Board of Directors nor the Committee nor any member thereof shall be liable to the Association, to any owner, or to any other party, for any damage, loss, or prejudice suffered or claimed on account of (i) the approval or disapproval of any plans, drawings or specifications, whether or not effective, (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, or (iii) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, such member has acted in good faith on the basis of such information as may be possessed by him.

ARTICLE VII

DAMAGE OR DESTRUCTION OF PROPERTY

Section 1. Property of Others. In the event an owner or any of his guests, tenants, licensees, agents or members of his family, damages or destroys any common element or a townhouse, carport or storage facility of any other owner, such owner does hereby irrevocably authorize the Association to repair said damaged element, townhouse, carport or storage facility, and the Association shall repair said damaged element, townhouse, carport or storage facility in a good and workmanlike manner in conformance with the original plans and specifications of the

townhouses and premises. The owner responsible for such damage or destruction hereunder shall reimburse the Association the amount actually expended by the Association for such repairs and any costs and expenses incurred in connection therewith within thirty (30) days of receipt of written notice from the Association of such amount.

Section 2. Owned Property. In the event the exterior of an owner's townhouse is damaged or destroyed by the owner or any of his guests, tenants, licensees, agents or members of his family, such owner shall, within thirty (30) days from the date of the occurrence of the damage or destruction, repair and rebuild the exterior of said townhouse in a good and workmanlike manner in conformance with the original plans and specifications used in the construction of said townhouses. In the event such owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhouse within said thirty-day period, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild the exterior of any such townhouse in a good and workmanlike manner in conformance with the original plans and specifications of the townhouses. The owner shall reimburse the Association the amount actually expended for such repairs, including any costs and expenses incurred in connection therewith, within thirty (30) days of receipt of written notice from the Association of such amount.

Section 3. Lien. Each owner further agrees that any expenses incurred by the Association for repairs under Sections 1 and 2 of this Article VII, if not paid within thirty (30) days after receipt of such written notice, shall be delinquent and shall become a lien upon said owner's lot and townhouse and shall continue to be such lien until fully paid. Said charges shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum. The amount of principal and interest owed by said owner to the Association shall be a debt, and shall be collectible by any lawful procedure allowed by the laws of the State of Arizona.

Section 4. Enforcement of Liens. Each such owner, by his acceptance of a deed to a lot and townhouse, hereby expressly vests in the Association or its agents the right and power to bring all actions against such owner personally for the collection of all such charges and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including those specified in Article V hereof, and such owner hereby expressly grants to the Association a power of sale in connection with said lien.

Section 5. Insurance. Nothing contained in this Article VII shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be

payable under any policy or policies otherwise but for the existence of this Article.

ARTICLE VIII

INSURANCE

Section 1. Insurance Coverage. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance coverage for all the buildings, including all townhouses, unless the owners thereof have supplied proof of adequate coverage to the Board of Directors' complete satisfaction, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard. The Board of Directors shall also obtain a broad form public liability policy covering all common elements, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism.

Section 2. Responsibility for Premium Costs. Premium payments on all insurance policies obtained hereunder, except on the individual townhouses, shall be a common expense. All such insurance coverage, including insurance on individual townhouses, obtained by the Board of Directors shall be written in the name of the Board of Directors as trustee for each of the townhouse owners. Insurance on individual townhouses obtained by such townhouse owners may be written in the name of the individual owners. Premiums for insurance obtained by the Board of Directors on individual townhouses shall not be part of the common expense, but shall be an expense of the specific townhouse or townhouses so covered and shall represent a debt owed by the owners which shall be collectible by any lawful procedure permitted by the laws of the State of Arizona. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall automatically become a lien upon such owner's lot and townhouse until fully paid. This lien shall be subordinate to the lien of any first mortgage, and shall be enforceable in any manner set forth in Article V hereof.

Section 3. Additional Insurance. In addition to the aforesaid insurance required to be carried by the owners and/or the Association, any owner may, at his own expense, insure his own townhouse for his own benefit and carry any and all other insurance coverages he deems advisable. It shall be the individual responsibility of each owner to provide homeowners' liability insurance, theft and other insurance covering personal property damage and loss.

Section 4. Use of Insurance Proceeds. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Board of Directors, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of such property to as good a condition as existed prior to such damage or destruction. All such insurance proceeds shall be deposited in a federally insured bank or other financial institution. Such funds so deposited shall be subject to withdrawal only upon the signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors may contract with any licensed contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings.

Section 5. Insufficient or Excess Insurance Proceeds. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding such damaged or destroyed property to the same condition as existed prior to such damage or destruction, the Board of Directors shall levy a special assessment against each townhouse owner of the damaged building in an amount equal to such owner's pro-rata portion of such deficiency; provided, however, such portion of the special assessment relating to the repair or rebuilding of the common elements shall be levied against all townhouse owners in the manner set forth in Article V hereof. In the event such insurance proceeds exceed the cost of such repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners as their interests may then appear. Such payments shall be made to all such owners and their mortgagees in proportion to their percentage interests.

Section 6. Insurance Proceeds Received by Owner. In the event of damage or destruction by fire or other casualty to any townhouse, carport, storage areas or other property covered by insurance written in the name of an individual owner, said owner, upon receipt of the insurance proceeds, shall contract to repair or rebuild such damaged or destroyed portions of the carport, storage area and the exterior of the townhouse in a good workmanlike manner in conformance with the original plans and specifications of said townhouse. In the event such owner refuses or fails to so repair and rebuild any and all such damage or destruction to the exterior of the townhouse, carport and storage area within thirty (30) days of receipt of such insurance proceeds, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild any such townhouse and/or carport and/or storage area in a good workmanlike manner in conformance with the original plans and specifications of the townhouses. The owner shall reimburse the

Association in the amount actually expended for such repairs within thirty (30) days of the completion of such repairs.

ARTICLE IX

MISCELLANEOUS

Section 1. Type of Structure. Each lot in the premises shall be known as, and limited in use to a single family townhouse unit, and construction thereon shall be limited to a townhouse no more than two stories in height. All building or structures erected upon said premises shall be of new construction and no buildings or structures shall be moved from other locations onto said premises. No buildings or structures other than townhouses, being residential units joined together by party walls, shall be built on any lot. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be erected, maintained, or used on any portion of the premises at any time.

Section 2. Type of Use. No noxious or offensive activity may be carried on or permitted on any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood; nor shall any part of the premises be used for business, professional, commercial or institutional purposes; provided, however, the foregoing restrictions shall not apply to the Association in furtherance of its powers and purposes as herein set forth.

Section 3. Pets. Domesticated dogs and cats, and other household pets, may be kept on the premises in reasonable numbers as determined by the Board of Directors, and subject to compliance with all Rules and Regulations pertaining to Pets, provided that they are not bred nor maintained for any commercial purposes. Other household pets are defined as caged birds, fish and turtles. No animals other than those enumerated herein shall be allowed to be brought onto the premises to be raised, bred or kept, except with the prior written approval of a majority of the Board of Directors.

Section 4. Outside Screening. All clotheslines, equipment, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhouses and streets. The Association shall be responsible for providing each lot with a sufficient number of (but not less than two) underground lidded twenty gallon garbage containers located adjacent to the front lot line and driveway. To the extent feasible, all rubbish, trash or garbage shall be kept in such containers and not allowed to accumulate on the premises; any rubbish, garbage or trash not capable of being kept in said containers shall be kept in other appropriate containers and screened from view of neighboring townhouses and streets until

the date of pickup by a trash collection service. No rubbish, trash or garbage shall be burned on the premises. Incinerators of every kind shall be prohibited.

Section 5. Utilities. Gas, electric, power, telephone, water, sewer, cable television and other utility or service lines (used for the general benefit of the lot owners) and other utility or service lines of every kind or character (whether now or hereafter invented or used) shall be placed and kept underground up to the walls of the buildings on the premises (except to the extent, if any, such underground placement may be prohibited by law or, because of the nature of the service to be rendered, such underground placement prevents the lines from being functional). This restriction shall apply to the service and utility lines for each and every lot and the common areas, as well as to the distribution lines located in the streets or elsewhere on the premises. However, the foregoing shall not prohibit service pedestals and above ground switching cabinets and transformers, where required.

Section 6. Landscaping. Except in the individual patio areas and common areas, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said premises except such as are installed in accordance with the initial construction of the building located thereon or as approved by the Board of Directors or Committee.

Section 7. Antennas. All radio, television and other antennas of every kind or nature shall be placed and maintained upon the premises (or the improvements located thereon) so that no portion thereof shall be visible from the outside of any townhouse or common area or other neighboring property or the streets.

Section 8. Signs. No sign (other than a name and address sign, not exceeding 9" x 30" in size) of any nature whatsoever shall be permitted on any lot; provided, however, that one (1) sign to be furnished by the Association may be temporarily erected or placed on the premises as directed by the Board of Directors for the purpose of advertising the property for sale or rent; and provided further, that this restriction shall not apply to the activities of the Association in furtherance of its powers and purposes as herein set forth.

Section 9. Renting.

(a) Restriction. No portion of a townhouse unit which is less than the entire unit, together with the improvements thereon, may be rented, and then the entire unit may be rented to a single family, only.

(b) Notice. Immediately upon entering into a rental or lease agreement or contract for sale for any townhouse within the

premises, the owner shall advise the Board of Directors directly, or through the management company, of the following information concerning the prospective tenants/purchasers:

1. Names of all prospective residents;

2. Ages of all prospective residents;

3. Occupation of each prospective resident;

4. Make, model and license number of all vehicles which will accompany the prospective residents;

5. Description of any pets to accompany the prospective residents.

Any lease, rental agreement or contract for sale shall be deemed hereby to include a covenant by the prospective residents that they will abide by this Declaration, the Articles of Incorporation, the Bylaws and Rules and Regulations applicable to 77 East Missouri Townhouses Association. The owner shall be responsible to provide all prospective residents of his unit with a copy of the Declaration, Articles of Incorporation, Bylaws and Rules and Regulations.

Section 10. Vehicles.

(a) Number Limit. The occupants of any townhouse shall not, in the aggregate, park, store or otherwise locate on their Lot more than four (4) passenger automobiles at any one time.

(b) Prohibited Types. No trucks, buses, trailers, boats, campers, mobile homes, recreational vehicles or similar vehicles (other than passenger automobiles) shall be permitted on any lot in any year without the prior written approval granted each year by the Board of Directors or Committee. Any such written approval shall specify the manner of screening or concealing of the subject vehicle from view of neighboring property and streets.

Section 11. Lot Size. No lot shall be resubdivided into smaller lots or conveyed or encumbered in less than full original dimensions as shown on the plat of the properties. Nothing herein shall prevent the dedication or conveyance of or granting of easements by the Board of Directors over portions of lots for public utilities or other public or quasi-public purposes, in which event the remaining portion of any such lot shall, for the purpose of these restrictions, be considered as a whole lot.

Section 12. Party and Exterior Walls.

(a) With respect to any party wall, each of the adjoining owners shall assume the burdens and be entitled to the benefits set forth in this Declaration, and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

(b) As to any exterior wall: (i) there shall be no minimum side setbacks on any lot; and (ii) no window, or window opening, or similar opening, may ever be installed in any such exterior wall which does not have such window installed in the original construction thereof.

Section 13. Nuisances. The Board of Directors shall have the right and power, in their sole discretion, to adopt by resolution of such Board of Directors a description of various activities which shall be deemed to be a nuisance, for the occurrence of which the Board of Directors may impose a fine upon an owner for such acts performed by said owner, his agent, tenant, licensee, guest or family member. The Board of Directors shall provide each owner with a description of such nuisances at such time as they are adopted. Upon the occurrence of a nuisance, the Board of Directors shall first notify the owner of such. The owner so notified shall have one (1) week to eliminate such nuisance. In the event such nuisance is not remedied within such period of time, or upon the second occurrence of such nuisance, the Board of Directors shall have the power to levy such fine as the Board of Directors, in their sole discretion, deems appropriate and shall have all of the rights and powers as set forth in Article V hereof for the collection of assessments to collect such fines so imposed.

Section 14. Fines. In addition to all other remedies available to it, the Association, acting through its Board of Directors, shall have the right and power to adopt and publish a schedule of reasonable fines which may be assessed and collected against an Owner pursuant to A.R.S. §33-1242(11) for any violation of this Declaration, the Bylaws, and any such other rules and regulations as may be duly adopted by the Board of Directors from time to time. A schedule of such fines shall be furnished to each Owner at such time as adopted by the Board of Directors. A fine may be assessed against any Owner only after a notice of intent to levy a fine for a specific violation has been delivered to such Owner, and such Owner has had an opportunity to be heard by a quorum of the Board of Directors concerning his defense, if any, to such alleged violation. Any fine then duly levied by the majority vote of the Board of Directors shall be considered an individual special assessment and shall be collectible by the Association in the same manner as all other assessments provided for in this Declaration.

Section 15. Preservation and Maintenance of Common Areas. The owners hereby acknowledge and declare that Tracts A, B, C, D, E, F, G, H, I, J. K, L, M and N are for the exclusive use and benefit of the individual townhouse owners. The owners hereby further declare, covenant and agree that the said tracts are subject to the provisions contained hereinafter as follows:

(a) Tract A is hereby described as private streets and alleys for the use and benefit exclusively of the owners of the individual residential townhouses and their grantees, invitees, servants and guests. At all times these tracts shall be used and maintained solely as private streets and alleys.

(b) The Association may staff the guardhouse on Tract D with full time or part time attendants as part of the Association's authorized powers.

(c) Tract B is hereby described as a recreational tract. This tract may be installed with lakes, swimming pools, bathhouses, picnic areas and any other similar developments commonly associated with recreational areas in such townhouse projects. The use of this tract shall at all times be exclusively for said recreational purposes.

(d) Tracts C, D, E, F, G, H, I, J, K, L and M are hereby described as open areas, general planting areas, and drainage areas for the exclusive use and benefit of the owners of the individual residential townhouse units. There shall be no structure built or maintained on such tracts, except as shown on the recorded site plan in Book 147 of Maps, page 50. These tracts shall be appropriately and attractively landscaped and so maintained at all times.

(e) Tract N is hereby described as a non-vehicular easement. This areas shall at all times have no structures built or maintained thereon with such tract to be appropriately and attractively landscaped and maintained as such non-vehicular easement at all times.

(f) The management, administration, supervision and control of said Tracts A, B, C, D, E, F, G, H, K, J, K, L, M and N shall be with the Board of Directors and shall be maintained in accordance with this Declaration and the Articles of Incorporation, Bylaws and rules and regulations of the Association. Appropriate and reasonable assessments may be made against individual townhouse owners for the purpose of adequate care, maintenance, repairs and upkeep of these tracts and their designated purposes.

(g) These common areas designated by the 14 tracts described hereinabove shall remain undivided as set forth above and no townhouse owner shall bring any action for partition, it

being agreed that this restriction is necessary in order to preserve the rights of the townhouse owners with respect to the operation and management of this residential subdivision.

(h) In connection with the use, maintenance and operation of Tract B above, the Board of Directors shall have the full and absolute power to adopt rules and regulations as it deems in the best interest of all of the members in connection with the use and operation of the said tract.

(i) There is hereby dedicated and declared a permanent easement over, across and under any or all of the said tracts at such locations and at such widths as may be necessary or incidental to the installation and maintenance of any utility facility including water, gas, electric, television, sewage, telephone, and any other similar utility purposes serving said townhouse project.

(j) The common elements shall remain undivided, and shall at all times be owned by the Association or its successors, it being agreed and understood that this restriction is necessary in order to preserve the right of the owners with respect to the operation and management of the common elements.

Section 16. Management Company. The Board of Directors shall retain a management company to direct the day to day activities of the Association. Such management company shall prepare an annual report which sets forth the activities of the Association for the prior year. The exact date for the annual report shall be determined by the Board of Directors. The Board of Directors shall have the right and power, in their sole discretion, to terminate upon no more than thirty (30) day notice the services of any management company so employed and to select a replacement therefor.

Section 17. Financial Statements. The Board of Directors shall cause to be prepared on an annual basis audited financial statements of the Association which statements shall include an income and expenses statement, a balance sheet and a statement of changes in financial position for the year then ending. The Board of Directors shall retain such individual or firm to prepare such statements as the Board of Directors, in their sole discretion, determines to be qualified for such position. Copies of such financial statements shall be furnished to each owner within thirty (30) days of their receipt by the Board of Directors.

ARTICLE X

EASEMENTS

Section 1. Utility Easements. There is hereby created a blanket easement upon, across, over and under the above described premises for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephones, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on said property and (subject to the requirements of Article IX, Section 5) to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of said townhouses. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on said premises except as approved by the Board of Directors. This easement shall in no way affect any other recorded easements on said premises.

Section 2. Encroachment Easements. Each townhouse and the common elements shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure is partially or totally destroyed, and then rebuilt, the owners of townhouses agree that minor encroachments of parts of the adjacent townhouse units or common elements due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 3. Maintenance Easements. There is hereby dedicated a sufficient easement across the rear portion and the front of each lot for ingress and egress for the purpose of maintaining the exterior of the townhouse and landscaping maintenance as well as any other Association purpose.

Section 4. Road Easements. In addition to the easement rights dedicated on the plat, Tract "A" shown thereon is a private road for the use of the owners, their assignees, guests and invitees.

ARTICLE XI

RIGHTS AND DUTIES OF FIRST MORTGAGEE

Section 1. Notwithstanding and prevailing over any other provisions of this Declaration, of the Association's Articles of Incorporation or Bylaws, or any rules, or regulations of

management agreements, the following provisions shall apply to and benefit each holder of a first mortgage upon a townhouse unit (called the first mortgagee):

(a) The first mortgagee shall not in any case or manner be personally liable for the payment of any assessment or charge, nor for the observance or performance of any covenants, restriction, regulation, rule, provision of the Articles of Incorporation or Bylaws of the Association, or management agreement, except for those matters which are enforceable by injunctive or other equitable actions, nor requiring the payment of money, except as hereinafter provided.

(b) During the pendency of any proceeding to foreclosure the first mortgage, including any period of redemption, the first mortgagee (or any receiver appointed in such action) may, but need not, exercise any or all of the rights and privileges of the owner of the mortgaged townhouse, including, but not limited to the right to vote as a member of the Association to the exclusion of the owner's exercise of such rights and privileges.

(c) At such time as the first mortgagee shall become record owner of a lot and townhouse, said first mortgagee shall be subject to all of the terms and conditions of this Declaration, including, but not limited to, the obligation to pay for all assessments and charges accruing thereafter, in the same manner as any owner.

(d) The first mortgagee, or any other party acquiring title to a mortgaged townhouse unit through foreclosure suit or through any equivalent proceedings such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title to the mortgaged townhouse unit free and clear of any lien authorized by or arising out of any of the provisions of this Declaration which secures the payment of any assessment for charges accrued prior to the final conclusion of any such foreclosure suit or equivalent proceeding, including the expiration date of any period of redemption, except as follows: Any such unpaid assessment against the townhouse unit foreclosed against may be treated as an expense common to all of the townhouse units, which expense may be collected by a pro rata assessment against the remaining unforeclosed upon townhouse units, and which pro rata assessment may be enforced as a lien against each townhouse unit in the manner provided for other assessments authorized in this Declaration. Any such unpaid assessment shall nevertheless continue to exist as the personal obligation of the defaulting owner of the respective townhouse unit to the Association, and the Board of Directors shall use reasonable efforts to collect the same from the owner even after he is no longer a member of the Association. There shall be a lien upon the interests of the first mortgagee or other party which acquires title to a mortgaged unit by foreclosure suit or by

equivalent procedures for all assessments authorized by this Declaration which accrue and are assessed after the date the acquirer has acquired title to the unit free and clear of any right of redemption.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Binding Effect. The covenants, conditions, charges, liens, reservations, easements and restrictions contained herein shall run with the land and shall be binding upon all persons purchasing, owning, leasing, subleasing or occupying or otherwise having any interest in any townhouse on said property, their heirs, executors, administrators, successors, grantees and assigns.

Section 2. Enforcement. The Association, acting through its Board of Directors, or any owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. The Association shall have the right and duty to enforce these restrictions and expend Association monies in pursuit thereof. Failure by the Association or by any owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 3. Title Subject to Existing Liens. Any person who acquires title to a lot, except through delivery of a sheriff's deed as a result of a foreclosure proceeding or by a deed in lieu of foreclosure, shall take title to such lot subject to the lien hereof for all assessments and charges that have accrued prior to such acquisition of title, and subject to the lien hereof for all said assessments and charges that shall accrue subsequent to the date said person takes title; and provided also that the breach of any of said restrictions may be enjoined, abated or reviewed by appropriate proceedings, notwithstanding the lien or existence of any such mortgage. The personal obligation to pay the annual and special assessments as provided in Section 1, Article V of this instrument shall not pass to a successor in title unless the obligation is expressly assumed by the successor in title or unless, prior to such transfer of title as evidenced by the records of the County Recorder or other appropriate governmental agency, a lien for such assessments shall have been filed in writing with the County Recorder or other appropriate governmental agency.

Section 4. Transfers Subject to Declaration. All instruments of conveyance of any interest of all or any part of said townhouses may contain the restrictions herein by reference to this instrument. However, the terms and conditions of this

instrument shall be binding upon all persons affected by its terms, regardless of whether any reference is made to this instrument in the deed or other instrument of conveyance. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation, to mandate compliance, or to recover damages; provided, however, that a violation of these restrictions, or one or more of them, shall not affect the lien of any mortgage now of record or which may hereafter be placed of record upon said lot, or any part thereof.

Section 5. Attorneys' Fees. In the event any party employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the owner, owners and parties against whom the action is brought shall pay all attorneys' fees and costs thereby incurred by any such enforcing party prevailing in any such action. Nothing herein set forth shall be deemed to provide or conclude that only damages at law constitute an adequate remedy for violation of a restriction herein.

Section 6. Waiver or Abandonment. The waiver of, or failure to enforce, any breach or violation of any restriction herein contained shall not be deemed to be a waiver or abandonment of such restrictions, or a waiver of the right to enforce any subsequent breach or violation of such restrictions. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these restrictions) had knowledge of the breach or violation. No restriction contained herein shall be deemed to have been waived or abandoned unless this Declaration is amended to delete such restriction pursuant to Article XII, Section 11, hereof.

Section 7. Equal Treatment of Owners. These restrictions shall be applied equally to all owners, without discrimination.

Section 8. Severability. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained therein should be invalid or should operate to render this agreement invalid, this agreement shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, or section or sections had not been inserted.

Section 9. Gender. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply

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

Section 10. Topical Headings. The marginal or topical headings of the paragraphs contained in this Declaration are for convenience only and to not define, limit or construe the contents of the paragraphs or of this Declaration.

Section 11. Amendment. These restrictions shall remain in full force and effect for a period of ten (10) years from the date thereof. Thereafter, they shall be deemed to have been automatically renewed for successive terms of ten (10) years, unless revoked or amended by an amendment in writing, which said instrument shall be recorded in the office of the Recorder for the County of Maricopa, State of Arizona, within ninety (90) days prior to the expiration of the initial effective period hereof or any ten (10) year extension thereof. These restrictions may be amended at any time by an instrument signed by the then owners of not less than sixty-seven percent (67%) of the townhouses on said property.

IN WITNESS WHEREOF, the undersigned members of the Association hereby execute this Declaration on the date indicated for the purposes herein contained, all such signatures to be effective as of the 1st day of August, 1986.

NOTE: The homeowners' signatures required in the original document were obtained and are on file with the document at the Maricopa County Recorder's office.

A F F I D A V I T

STATE OF ARIZONA)
) ss.
County of Maricopa)

ARNOLD COOK, being first duly sworn, upon his oath, deposes and says that he is over the age of eighteen (18) years and is otherwise competent to testify in a court of law of the United States or its several states and makes this Affidavit without being under fraud, duress, or undue influence from any person as to the following facts:

1. That he is President of 77 East Missouri Townhouses Association;

2. That, in the capacity of President of said Association, he is making this Affidavit in support of the First Amendment to Declaration of Covenants, Conditions and Restrictions and on behalf of the Board of Directors for 77 East Missouri Townhouses Association;

3. That he is personally aware that the persons who signed the pages affixed to the First Amendment to Declaration of Covenants, Conditions and Restrictions for 77 East Missouri Townhouses Association are members of said Association; and,

4. That the signatures duly affixed to said First Amendment to Declaration of Covenants, Conditions and Restrictions represent at least ninety percent (90%) of the homeowners in 77 East Missouri Townhouses Association , as required for amendments by the Declaration of Covenants, Conditions and Restrictions for 77 East Missouri Townhouses Association.

FURTHER AFFIANT SAYETH NOT.

Arnold M. Cook
ARNOLD COOK

SUBSCRIBED AND SWORN TO before me this 3 day of July, 1986 by ARNOLD COOK.

Karen Spletter
NOTARY PUBLIC

My Commission Expires:

May 31, 1990