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**AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS  
FOR  
SCOTTSDALE SHADOWS V**

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This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Scottsdale Shadows V (the "Declaration") is made this 14th day of May, 2021 by the Scottsdale Shadows V, Inc., an Arizona nonprofit corporation (the "Association").

**WITNESSETH**

**WHEREAS**, that Declaration of Horizontal Property Regime and of Covenants, Conditions and Restrictions for Scottsdale Shadows V was recorded at recording number 1978-0106032, records of Maricopa County, AZ, as amended by that certain Amendment recorded at recording number 1978-0166714, records of Maricopa County, AZ, as further as amended by that certain Amendment recorded at recording number 2009-0612603, records of Maricopa County, AZ (together, the "Original Declaration");

**WHEREAS**, this Amended and Restated Declaration has been approved by Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated and is amended pursuant to Arizona Revised Statutes §33-1227;

**NOW, THEREFORE**, the Original Declaration and any amendment thereto are of no further effect and are hereby deleted, amended and restated by this Declaration as follows:

**ARTICLE I**

1. Definitions as used herein, unless the context otherwise requires:

1.1 "Act" means Arizona Condominium Act in the Arizona Revised Statutes §33-1201 *et seq.*

1.2 "Association" means Scottsdale Shadows V, Inc., an Arizona nonprofit condominium, its successors and assigns.

1.3 "Board of Directors" or "Board" means the elected representatives as the governing body of the Association.

1.4 "Building" means each building located on the Parcel which constitute: Two Buildings as shown as shown on the plat recorded in Book 198 of Maps, Page 41, records of Maricopa County, Arizona, designated on such Plat as: Building 28 and Building 29, (originally building 5A and 5B). These Building have seven structural stories above the ground floor, and contain, 78 and 70 units respectively, total of 148 Units, and various mechanical, laundry, storage and equipment rooms, and Underground garages with 155 numbered spaces as further described on such Plat.

1.5 "Common Elements" means all portions of the Parcel/Property other than the Units, including but not limited to, the roofs of the Buildings, any laundry rooms, storage rooms, mechanical rooms, central air conditioning/heating system (excluding any portion of such system which exclusively serves each unit),

driveways, landscaping of the Common Elements, and all other portions of the Property, except the Units.

- 1.6 "Limited Common Element" means a portion of the Common Elements specifically designated as a Limited Common Element in the Declaration and allocated by the Declaration or by operation for the exclusive use of one or more but fewer than all of the Units. Limited Common elements include Balcony Railings, Patio Railings and, Patio and Balcony Balusters, the walls on either side and rear of the Balcony or Patio.
- 1.7 "Communal Area" means all of the properties now or hereafter owned and held by Recreational Center, Inc., its successors and assigns for the common use and enjoyment of its members, including but not limited to such things as driveways and parking areas maintained by Recreational Center, Inc., walk areas, lighting fixtures, concessions, rights-of-way, easements, bicycle paths, pedestrian trails, a golf course and tennis courts maintained by Recreational Center Inc., pool and other recreational areas and facilities, pumps, trees, landscaping of the Communal Areas, streets, pipes, wire, conduits and other utility lines.
- 1.8 "Declaration" means this instrument by which the property is subject, as from time to time may be amended.
- 1.9 "Majority" or "Majority of Owners" means Owners of Units to which more than fifty-one percent (51%) of the undivided ownership of the Common Elements is appurtenant, irrespective of the total number of Owners.
- 1.10 "Occupant" means a person or persons, other than an Owner, in rightful possession of a Unit.
- 1.11 "Owner" or "Person", means the record owner according to the deed recorded in the Maricopa County recorder's office and a natural person authorized to make financial decisions as the trustee of a trust, executive of a corporation or principle of any other entity capable of holding title to real property.
- 1.12 "Parcel" means the parcel or tract of real estate described above in this Declaration, which is hereby submitted to this Declaration.
- 1.13 "Parking Space" means each of the separate parking spaces in the underground parking garage, as shown on the Plat; and "Restricted Parking Space," means each Parking Space or spaces in the underground parking garage.
- 1.14 "Guest Parking Space" means any Parking Space in any outside parking area maintained by Recreational Center, Inc.
- 1.15 "Plat" or "Plats" means the various plats of survey of the Property, as hereinbefore and hereinafter more fully described and identified, all of which are recorded in Book 198 of Maps, Page 41, records of Maricopa County, Arizona.
- 1.16 "Property" means the Parcel, the Buildings and the Units comprising the Association, together with all buildings, improvements and other permanent fixtures of whatsoever kind thereon, all rights and privileges belonging or in any way pertaining thereto and all furniture, furnishings, fixtures, machinery,

equipment, and appliances and personal property located thereon, intended for the mutual use, benefit and enjoyment of the Owners.

1.17 "Record" or Recording" refers to record or recording in the office of the County Recorder of Maricopa County, Arizona.

1.18 "Resolution" means those certain resolutions of the Board of Directors recorded at recording number 2016-0865545, records of Maricopa County, AZ and recorded at recording number 2016-0865546, records of Maricopa County, AZ and any other resolutions the Board of Directors, from time-to-time, may impose. All resolutions are hereby incorporated into this Declaration.

1.19 "Rules and Regulation" mean the rules and regulations that may be adopted, amended, and repealed from time to time by the Board of Directors. The Rules may among other things, restrict and govern the use of the Units and the Common Elements.

1.20 "Unit" shall mean a separate freehold estate consisting of an airspace as described on the Plat. Such Units are as follows:

- i. The lower vertical boundary is the surface of the unfinished floor thereof.
- ii. The upper vertical boundary is a horizontal plane, the elevation of which coincides with the elevation of the surface of the highest unfinished ceiling or any extension of the elevation thereof.
- iii. The lateral boundaries are the interior surfaces of the perimeter walls, windows and doors thereof and vertical planes coincidental with the interior surfaces of the perimeter walls thereof, extended upwards to intersect the upper vertical boundary.
- iv. The patio or balcony fences or any extension of the vertical interior surface thereof.
- v. Unless otherwise indicated, all airspace boundary lines intersect at right angles.

Each Unit includes the surfaces so described and the portions of the Building and Improvements lying within said boundaries together with any portion of the central air-conditioning/heating system which exclusively serves such Unit.

However no portion of the roof, bearing walls or other structural components of the Building in which each Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, or public utility, water or sewer lines situated within such Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of a Unit.

## **ARTICLE II**

2. Submission of Property. The Association hereby submits and subjects the Property to this Declaration and subject to the Act. The Association shall be known as Scottsdale Shadows V Inc., an Arizona Non-Profit Corporation. The Association does hereby declare that all of the Units shall be owned leased, sold, conveyed and encumbered or otherwise held or disposed of subject to the terms, conditions and other provisions of this Declaration.

## **ARTICLE III**

3. Description of the Buildings, the Units and the Common Element. The entire Association shall be constituted of the Common Elements and the Units.

3.1 Buildings. There are two (2) Buildings in the property known as Building 28 and Building 29. (Originally 5A and 5B). Reference is hereby made to the Plats of the cubic content or space of each of the Buildings and its location or planned location on the Parcel.

3.2 Units. There are a total of 148 Units in the two (2) Buildings. Reference is hereby made to the Plats for a description of the cubic content space of each unit and its location within the Buildings. Each Unit shall be defined pursuant to Section 1.20 of this Declaration.

3.3 Common Elements. A description of the Common Elements included in and comprising parts of each Building is the description referred to in subparagraph 3.1, less the descriptions of the Units referred to in Section 1.20. A description of the other Common elements is as set forth in subparagraph 1.5.

3.4 Interest in the Common Elements: The percentage interest which each Unit bears in the Common elements which is appurtenant to each such Unit, shall be as provided in Exhibit A attached hereto.

#### ARTICLE IV

4. Board of Directors: The Association shall form a "Board of Directors" to serve as the governing body for all of the Owners and shall have the general management powers to act on behalf of the Association, as more fully set forth in the Bylaws of the Association (hereinafter called the "Bylaws"). Each Unit may have one Owner run for a seat on the Board of Directors. If more than one person owns a Unit, only one Owner from the Unit may serve on the Board at any given time. No occupant of a Unit who is not an Owner of Association V may serve on the Board of Directors or vote in any Association election.

4.1 Membership: Upon accepting a Deed within the Association, or otherwise becoming an Owner of a Unit within the Association, each Owner shall have an interest in Recreational Center, Inc. as provided in Article VI of the Articles of Incorporation and the Bylaws of such Recreational Center, Inc., and shall perform all obligations therein and pay all assessments levied thereafter by Recreational Center, Inc. In the event of any conflict between the provisions of this Declaration and the Articles of Incorporation, and the Bylaws or rules and regulations of Recreational Center, Inc., the provisions of this Declaration shall prevail. Each Owner shall be a Member of the Association upon obtaining an interest to ownership in a Unit. Such membership shall automatically terminate when an Owner ceases for any reason to be an Owner, and the new Owner shall likewise automatically succeed to such membership in the Association. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Unit to which it appertains (and then only to such purchaser) or by intestate succession, testamentary disposition, foreclosure of a mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the Person or Owner to whom such fee simple title is transferred pursuant to the recorded deed in the Maricopa County Recorder's Office). Any attempt to make a prohibited transfer of a membership is void and will not be recognized by or reflected upon the books and records of the Association.

4.2 There shall be one voting class: Each Owner shall receive one vote for each Unit owned. If more than one person owns a Unit, the vote must be cast as a single Unit. Splitting of a vote shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose the right to vote on the matter in question. If any Owner or Owners casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that said person acted with the authority and consent of all other owners of the same Unit. In the event more than one vote is cast for a particular Unit, and there is a conflict among votes, none of the votes shall be counted and said votes shall be deemed void. The vote by an Owner shall be based one vote per Unit as defined in Exhibit A.

4.2.1 Votes may be submitted in person or by written or electronic absentee ballot, but no vote presented via Social Media (such as, but not limited to, Facebook and Twitter) shall be counted. The Association shall verify ownership of the Unit for which the vote is submitted.

4.3 Recreational Center, Inc.: The Board of Directors, pursuant to the Articles of Incorporation and the Bylaws of Recreational Center, Inc., shall be empowered to designate three members of the Board as a representative. Of the three-member representatives, only one member can vote the membership of the Board of Directors in all actions and all decisions required by such Council in connection with its membership in Recreational Center, Inc. The remaining two are non-voting alternates. The Board may meet and determine to the extent it considers appropriate how said designated director shall vote such membership on any issue or item, but said director shall be free to and shall act in accordance with their own best judgment on all other matters.

## ARTICLE V

5. Use of Common Elements: Each Owner shall have the non-exclusive right to use the Common Elements and Communal Areas in common with all other Owners as may be required for the purposes of access and ingress and egress to and from and the use, occupancy and enjoyment of the respective Unit owned by such Owner and of the Common Elements and Communal Areas for their intended purposes, as herein provided.

Such right shall extend to each occupant, tenants, family members and invitees of each Owner. Such right shall be subject to such reasonable limitations and restrictions as may from time to time be promulgated by the Board and shall be subject to and governed by the provisions of this Declaration, the Articles and the Bylaws.

In the event any Owner leases a Unit or Units, the lessee shall be entitled to exercise the Owner's rights to use the Common Elements and Communal Areas for their intended purposes during the term of such lease, and with respect to any Unit or Units so leased, said Owner shall have no rights to use said Common Elements and Common Areas. The Board shall have authority to lease, convey easements or grant concessions consistent with the overall character and use of the Property with respect to parts of the Common Elements or to change the character, description and use thereof, subject to the provisions of this Declaration, the Articles and the Bylaws. Any income derived by the Association from leases, concessions or other sources shall be held and used for the benefit of the members of the Association pursuant to such rules, resolutions or regulations as the Board may adopt, amend or repeal.

## ARTICLE VI

6. Parking Spaces: There shall be two types of Parking Spaces, called "Restricted Parking Spaces" and "Guest Parking Spaces." Each Restricted Parking Space is a Separate taxable property with its own parcel number assigned by Maricopa County.

6.1 Restricted Parking Spaces: Restricted Parking Spaces may be leased, or otherwise assigned pursuant to Section 6.2. The Owner or other person legally entitled to the use of any Restricted Parking space shall be entitled to reasonable access thereto and to the use thereof for parking purposes, subject to such Rules and Regulations as may be adopted by the Board of Directors from time to time.

6.2 Ownership of Restricted Parking Spaces: Every Owner of a Unit or Units shall be required to own all the Restricted Parking Space or Spaces deeded with the Unit or owned by them. An Owner may lease or

lend their Restricted Parking Space(s) and may do so to Association Owners, only. No Restricted Parking Space shall be leased or lent, or assigned to or otherwise used by any person who is not then the Owner or Lessee, of a Unit.

6.3 Grandfathered Restricted Parking Spaces: Any Restricted Parking Space that has been sold or otherwise conveyed to any person who is not the Owner of a Unit in the Association prior to the approval of this Declaration shall have that ownership grandfathered, notwithstanding any requirements in these Declarations or Bylaws of Association. The grandfathered Restricted Parking Space Owner shall have all the rights of usage afforded a Unit Owner of the Association. The grandfathered Restricted Parking Space may not be leased or resold to any person who is not a member of the Association.

In the event any Owner leases any Unit to a lessee, the lessee shall have the right to use the Restricted Parking Space owned by the Owner in connection with the Unit subject to the lease, and during the term of the lease, the Owner shall have no right to use any Restricted Parking Space, owned in connection with such leased Unit.

Owners in the Association and of a grandfathered Restricted Parking Spaces are required to report the status of their Restricted Parking Spaces to the Association. A complete list of the names and addresses of persons owning, leasing or otherwise entitled to use Restricted Parking Spaces shall be maintained by the Association at all times, and the Association may exclude from any Restricted Parking Space any person who is not so listed.

6.4 Damages to Any Occupant of Restricted Parking Space. The Association is not responsible for damages to anything located in a Restricted Garage Space, including water and/or rain damage. Owners and or tenants of Restricted Garage Spaces assume the risks of parking a vehicle. Leaks are to be immediately reported to the Association and to the RCI Maintenance Department. While repairs are being made to any leaks from the deck above the underground garage, occupants of the deeded garage space must take responsibility for protections from the existing leak.

## ARTICLE VII

7. Common Expenses: Each Owner shall pay their proportionate share of the expenses of the administration and operation of the Common Elements and of any other expenses incurred in conformance with this Declaration, the Articles and the Bylaws (which expenses are herein sometimes referred to as "Common Expenses"), including specifically, but not by way of limitation, insurances, the maintenance and repair of the Common Elements and any and all replacements and additions thereto, and reasonable reserves for contingencies, replacements or other proper purposes. The Association shall maintain an adequate reserve for replacement and repair of the Common Elements. The expenses of the administration and operation of the Common Elements shall also include any assessments of the Owners for the Communal Areas. Each Owner's proportionate share of such Common Expenses shall be the same as the fractional undivided interest in the Common Elements appurtenant to their Unit as provided in Exhibit A.

7.1 Payment of Common Expenses: Payment of Common Expenses including any prepayment thereof required by contract for sale of a Unit, shall be in such amounts, at such times as in such manner as may be determined by the Board of Directors of the Association. Such payment, together with interest, late fees, collection costs, and attorney's fees and costs incurred in enforcing or attempting to enforce the provisions of the Declaration and collecting or attempting to collect any amounts owed, and costs, shall be the personal obligation of the person who was the Owner of such Unit at the time such payment fell due. The personal



obligation for delinquent payments shall not pass to an Owner's successor in title unless expressly assumed by the successor Owner.

If any Owner shall fail or refuse to make any such payment of Common Expenses or expenses due to repairs made or deducts their repair expense from their Monthly Assessment, when due, the amount thereof, together with, collection costs, late fees and costs and attorney's fees incurred in enforcing or attempting to enforce the provisions of the Declaration and collecting or attempting to collect any amounts owed and costs, shall constitute a continuing lien on such Owner's Unit and on any rents or proceeds there from; provided, however, that such lien shall be subordinate to the lien of a prior recorded First Mortgage on the applicable Unit, acquired in good faith and for value, except for the amount of the unpaid Common Expenses which accrues from and after the date on which such First Mortgagee acquires title of the applicable Unit, and if any lien for unpaid assessments prior to such date has not been extinguished by the process by which such First Mortgagee acquired such title or possession, such First Mortgagee shall not be liable for such unpaid assessments. Any assessments and charges against the Unit which accrue prior to such sale or transfer, shall remain the obligation of the defaulting Unit Owner.

7.2 Special Assessments: The Association, by a majority vote of the Board of Directors, may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Elements, including fixtures and personal property of the Association related thereto, or for any other lawful Association purpose; provided that any Special Assessment (other than a Special Assessment levied pursuant to Section 10.1 as a result of the damage or destruction of all or part of the Common Elements) shall have first been approved by the majority of the Board of Directors. Special assessments may be used only for maintenance, repair or replacement of Association property, not for expenses defined in Article IX. Unless otherwise specified by the Board of Directors, Special Assessments shall be due thirty (30) days after they are levied and notice of the special assessment is given to the owners.

7.4 Collection of Assessments: The Association shall have the right, at its option, to enforce collection of any delinquent Assessments, late fees, collection costs, attorneys' fees and costs, monetary penalties and all other fees and charges owed to the Association in any manner allowed by law or at equity including, but not limited to:

- (a) bringing an action at law against the Unit Owner personally obligated to pay the delinquent amounts and such action may be brought without waiving the Assessment Lien securing any such delinquent amounts; and/or
- (b) bringing an action to foreclose the Assessment Lien against the Unit in the manner provided by law for the foreclosure of a realty mortgage. The Association shall have the power to bid in any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Units purchased at such sale;
- (c) In the event of a sale of a Unit, all amounts owed to the Association pursuant to this Declaration, or otherwise owed pursuant to Arizona law, shall be paid in full either prior to closing or at closing. If the amounts owed are not paid in full, the Unit will not transfer with clear title.

In the event any Owner is in arrears in the payment of any Assessment, monetary penalties or other fees and charges due under the terms of this Declaration for a period of fifteen (15) days and/or is in violation of any provision of the Condominium Documents for a period of thirty (30) days after the Unit Owner is notified of the violation by the Association, the Unit Owner's right to run for a position on the Board of Directors or Committee and right to vote as a member of the Association or as a member of the Board of Directors shall be automatically suspended. The Suspension shall remain in force until all payments,

including late fees and attorneys' fees, are brought current, and all violations are cured and corrected to the satisfaction of the Association. The Owner's vote may be used to count toward quorum. The Board shall establish a procedure for informing an Owner of Suspension.

7.5 Garage Maintenance and Repair Expenses: The Association shall maintain and repair the Garage including Common Property and Restricted Parking Spaces. Owners may be assessed for such maintenance and repair in proportion to their ownership in the Association as defined in Exhibit A.

7.6 Creation and Approval of a Budget: The Board of Directors shall annually, prepare a budget for the Association that determines the amount of the common charges payable by the Owners to meet the common expenses of the Association. The budgeted common charges shall be adopted by a majority vote of the Board of Directors. The common charges determined by Board approval shall be used to allocate and assess such charges among the Owners according to the interests in the Common Elements appurtenant to their respective Units as defined in Exhibit A. The Board shall have the authority to adopt and amend budgets, reallocate money between budgeted items, from time to time, and no ratification of the Owners shall be required. Reallocation of money between budgeted items shall not change the assess charges among the Owners.

The Board should, but is not required to, establish in the By-Laws the calendar for preparing and voting on the budget for the following year.

Within thirty (30) days of adoption of the budget, the Board of Directors shall advise all Owners in writing of the amount of such charges payable by each of them respectively and shall furnish copies of the budget on which such common charges are based to all Owners. A copy of the budget shall be furnished to any Owner's Mortgagees if requested in writing. The Board of Directors may levy a late penalty charge of any Owner who fails to pay all or any part of the Owner's assessment on or before the due date as set by the Board of Directors.

## ARTICLE VIII

8. Transfer Fee: Except as provided below, each person or entity who / that is the seller of a Unit, whether by Deed, by a Trustee's deed upon Sale, by a Deed in Lieu of Foreclosure, or any similar means, shall pay to the Association, immediately upon close of sale of the Unit, a Transfer Fee in an amount as determined by the Board of Directors. The amount of the Transfer Fee may be increased or decreased by the Board from time to time, but only once in any calendar year and published in the Rules. The Transfer Fee shall be voted on by the Board at the time of the Budget vote starting in the year following recordation of this Amended and Restated Declaration, except in the year that this Amended and Restated Declaration is approved and recorded the Board may, but is not required to, institute a Transfer Fee at any time after recordation.

Transfer Fees shall be non-refundable and shall not be considered as a payment of assessments. Transfer Fees will touch and concern the land and shall be used as contribution to the Reserve Fund. The Transfer 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 A.R.S. § 33-1260 and, therefore, the Transfer Fee shall be in addition to the fee which the Association is entitled to charge and collect pursuant to A.R.S. § 33-1260.

No Transfer Fee shall be payable with respect to:

- (i) the transfer or conveyance of a Lot by device or in estate succession;
- (ii) a transfer or conveyance of a Lot for estate planning purposes; or
- (iii) a transfer or conveyance partnership or other entity in which the grantor owns a majority interest unless the Board determines, in its sole discretion, that a material purpose of the transfer or conveyance was to avoid payment for the Transfer Fee in which event a Transfer Fee shall be payable with respect to such transfer or conveyance.

## **ARTICLE IX**

9. Restricted Funds. The Board of Directors shall establish a Restricted Replacement Reserve Fund and formally segregate each year a portion of the General Assessments to be set aside in one or more separate interest-bearing accounts. Those accounts shall be named "Reserve Fund Account" on the financial records of the Association. The Reserve Fund shall be used solely and specifically for major repairs, restoration and capital replacement, such as roofs, but not limited to, boilers, chillers, decks, exterior painting and other major components of the Association Property. The accounts shall be insured by the FDIC and the amount in any one account must be within the insured amount limit established by the FDIC.

Withdrawals from the Restricted Replacement Reserve Fund may only be used for the restoration, repair and replacement of capital improvements and equipment and necessary refurbishment of the building structure and Common Elements and not for annual maintenance or operating expense, nor may the monies be rebated to the Owners or used to reduce their future operating expenses.

9.1 Additional Restricted Funds. The Board may create additional restricted funds. The purpose and use of any such fund(s) shall be defined in the By-Laws. Any such funds shall be insured by the FDIC and the amount in any one account must be within the insured limit established by the FDIC.

## **ARTICLE X**

10. Insurance Requirements Scope of Coverage: The Association shall maintain, to the extent reasonably available, the following insurance coverage in compliance with the Act:

- (a) A special form policy of property insurance with sprinkler leakage (if applicable), debris removal and water damage endorsements, insuring the entire Common Property of the Condominium, except for the interiors of the Units and any structures or contents within a Unit, as defined by Article I Section 1.20. Unit Owner shall be solely responsible for property insurance covering the interiors of the Units and any structures and contents within the Unit. Such property insurance shall cover the interests of the Association, the Board of Directors and all Unit Owners and their mortgagees, as their interests may appear (subject, however, to the loss payment adjustment provisions in favor of an Insurance Trustee). The amount of insurance shall be equal to one hundred percent (100%) of the then current replacement cost of the Common Property of the Condominium (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation. The Board of Directors should review the replacement cost annually with the assistance of the insurance company affording such coverage, The Board of Directors shall also obtain and maintain such coverage on all personal property owned by the Association.
- (b) Broad form comprehensive general liability insurance, for a limit to be determined by the Board, but not less than \$1,000,000 for any single occurrence and Umbrella or Excess Liability Coverage in an amount not less than \$2,000,000. Such insurance shall cover all

occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements. Such policy shall include:

- (i) A cross liability clause to cover liabilities of the Owners as a group to an Owner; and
  - (ii) Medical payments insurance and contingent liability coverage arising out of the use of hired and non-owned automobiles.
- (c) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of Arizona and, if the Association has any employees, a policy of employer's liability insurance with coverage limits determined by the Board of Directors with recommendation from the insurance carrier.
- (d) Directors' and officers' liability insurance in an amount not less than \$1,000,000 covering all the directors and officers of the Association.
- (e) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association, the members of the Board of Directors, the members of any committee or the Board of Directors or the Unit Owners. This coverage shall include, without limitation, umbrella general liability insurance that would provide general liability coverage in excess of the coverage provided by the policy to be obtained.
- (f) The insurance policies purchased by the Associations shall, to the extent reasonably available, contain the following provisions:
- (i) Each Unit Owner shall be an insured under the policy with respect to liability arising out of their ownership of an undivided interest in the Common Elements or their membership in the Association.
  - (ii) There shall be no subrogation with respect to the Association, its agents, servants, and employees against Unit Owners and members of their household, except for claims against Unit Owners by members of their households for employee dishonestly or forgery.
  - (iii) No act or omission by any Unit Owner, unless acting within the scope of their authority on behalf of the Association shall void the policy or be a condition to recovery on the policy.
  - (iv) The coverage afforded by such policy shall be primary and shall not be brought into contribution or proration with any insurance, which may be purchased, by Unit Owners or their mortgagees or beneficiaries under deeds of trust.
  - (v) A "severability of interest" endorsement, which shall preclude the insurer from denying the claim of a Unit Owner because of the negligent acts of the Association or other Unit Owners.
  - (vi) The Association shall be the insured for use and benefit of the individual Unit Owners (designated by name if required by the insurer).
  - (vii) For policies of property insurance, a standard mortgagee clause providing that the insurance carrier shall notify the Association and each First Mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial change in coverage or cancellation of the policy.
  - (viii) Any Insurance Trust Agreement will be recognized by the insurer.

- (g) If applicable, pressured, mechanical and electrical equipment coverage on a comprehensive form in an amount not less than \$500,000 per accident per location.
- (h) Pursuant to A.R.S. §33-1255(C), any costs, including the deductible for the maintenance, repair or replacement of a Limited Common Element as defined in Section 1.6 shall be assessed to the Unit to which the Limited Common Element is assigned. Further, any Common Expense, including a deductible, for a Common Expense benefitting fewer than all of the Units shall be assessed exclusively against the Unit benefitted. Furthermore A.R.S. § 33-1255(E) provides that if any Common Expense is caused by the misconduct of any Owner, the Association may assess that expense exclusively against that Owner. The Board may adopt rules regarding water damage to Common Elements or other Units, caused by lack of an Owner following this Declaration, the Rules and Regulations or Bylaws concerning water connections, fire suppression sprinklers and any plumbing installed solely within a Unit.
- (i) Fidelity Bonding that covers 100% of the estimated annual budget of the Association from time to time, plus 100% of all other funds of the Association, including but not limited to The Reserve Fund and any other special funds that may be established by The Board of Directors from time to time.

10.1 Receipts and Application of Insurance Proceeds: All insurance proceeds and recoveries under policies maintained by the Association shall be paid to and received by and for the benefit of the Association. The Association shall have the right, acting alone, to adjust or settle any claim by it under any insurance maintained by it.

## **ARTICLE XI**

11.1 Insurance by Owners and Owners' Responsibility for Damage: Each Unit Owner shall be responsible for obtaining:

- (a) Property insurance on their Unit as defined in Article I Section 1.20 and all fixtures, furnishings, cabinets and appliances and all personal property of the Owner located in the Unit.
- (b) Comprehensive general liability insurance covering their Unit. Notwithstanding the obligation of the Association to obtain insurance coverage as stated in this Declaration, neither the Association, or its respective officers, directors, employees and agents, shall be liable to any Unit Owner or any other party if any risks or hazards are not covered by the insurance to be maintained by the Association or if the amount of the insurance is not adequate. Each Unit Owner shall ascertain the coverage and protection afforded by the Association's insurance and to procure and pay for any additional insurance coverage and protection that the Unit Owner may desire.
- (c) Each Unit Owner shall be responsible for any damage to other Units, Association Common Property or Recreation Center Inc., property caused as a result of Owner's (and/or Owner's tenant/lessee/occupant/guest/contractor/representative/agent/pets/animals, etc.) willful or negligent act.

- (d) Unit Owner's shall be responsible for damage to Common Property, Limited Common Property or other Units caused by water leaks occurring within the Owner's Unit and that are not caused by a Common Property water leak. This provision includes water leaks from the Unit sprinkler system.
- (e) Notwithstanding the provision of (d) above, except for repair of damage to a wall or walls, or the ceiling required to affect repair of Common Property including, but not limited to, plumbing, the sprinkler system and electrical infrastructure, any other damage to a Unit, including painting and decorating, shall be the responsibility of the Unit Owner.
- (f) Owners shall be responsible for and obligated to repair the Owners' Unit due to damage from fire, water, the electrical system, the heating and air-conditioning system and any other infrastructure failure wholly within the Owners' Unit.

## **ARTICLE XII**

### **12. Destruction, Condemnation, Obsolescence, And Restoration or Sale of Property.**

**12.1 Automatic Reconstruction.** Any portion of the Parcel for which insurance is maintained by the Association which is damaged or destroyed shall be repaired or replaced promptly by the Association unless:

- (a) The Condominium is terminated;
- (b) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or,
- (c) Eighty percent (80%) of the Unit Owners, including every Owner of a Unit or allocated Limited Common Element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement of the damaged or destroyed portion of the Condominium in excess of insurance proceeds and reserves shall be a Common Expense and shall be assessed against the Members as a Special Assessment.

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

**12.3 Negotiations with Insurer:** The Association shall have full authority to negotiate in good faith with representatives of the insurer of any totally or partially destroyed building or any other portion of the Common Elements, and to make settlements with the insurer for less than full insurance coverage on the damage to such building or any other portion of the Common Elements. Any settlement made by the Association in good faith shall be binding upon all Owners and First Mortgagees. Insurance proceeds for any damage or destruction of any part of the Condominium covered by property insurance maintained by

the Association shall be paid to the Association and not to any First Mortgagee or other lien holder. The Association shall hold any proceeds in trust for the Unit Owners and lien holders as their interests may appear. All insurance proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements, and Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged or destroyed Common Elements have been completely repaired or restored or the Condominium is terminated.

### ARTICLE XIII

#### 13. Maintenance, Repairs and Replacements:

All repairs of internal installations of a Unit, such as water, electrical power, sewage, telephone, cable service, air handler units and associated plumbing, doors, windows, lighting devices, sprinkler system components and other accessories belonging to and located solely within the individual Unit and associated balcony and patio shall be at the Owner's expense. Any such repairs required that are outside of the Owners' Unit shall be at the expense of the Association as a Common Area maintenance cost unless the damage is the from either accidental or purposeful actions of the Unit owner, their guests, lessees or animals as defined in Article XIII Section 13.4.

Repair of any damage to the interior of a Unit shall be made by and at the individual expense of the Unit Owner or Owners. The repairs shall be completed as promptly as practicable and in a lawful and workman like manner. This requirement includes damage caused by individual unit sprinkler systems.

#### 13.1 Association Responsibility for Repair:

The Association shall be responsible for maintenance, repair and replacement of the Common Elements, including the Common Element plumbing. In the event that a Unit is damaged during the course of a Common Element repair, all of the following shall apply:

- (a) The Association shall be responsible for repairing any damage to the ceiling and/or wall; and
- (b) The Owner shall be responsible for all other repairs within the Unit, including, but not limited to, any and all personal and/or decorative property within the Unit.

13.1.1 Duty to Cooperate Rule or Policy: If an Owner or Owners prohibit the Association or its agents from entering the Unit to remediate further damage; the owner will be responsible for any additional cost to repair the Unit.

13.1.2 Rule/Policy: The Owner or Owners must notify the Association within a twenty-four (24) hour period of damage and provide access to the Unit. The Owner is also required to make every effort to mitigate damages. If the Owner(s) fail to abide, the Owner(s) is responsible for any additional damage caused as a result of the Owner's failure to promptly notify the Association and/or failure to mitigate damages.

13.2 The Board, by and through Rules and/or Bylaws, shall determine Unit Owner's requirements for maintenance of the Owner's Unit sprinkler system, including, but not limited to, the responsibility for payment of maintenance and the minimum insurance or surety bond requirement for water damage caused by the sprinkler system. In the event that a Unit Owner's sprinkler system causes damage to the Owner's Unit, another Unit within the Building and/or the Common Elements, the Unit Owner where the sprinkler is located shall be solely responsible for the costs to repair all such damage.

13.3 In the event any Owner fails to maintain, keep or repair their own Unit and such failure has caused damage to another Unit or Common Property, the Association may require the Owner to begin repair of their Unit within twenty-four (24) hours or a time period the Board from time to time may specify.

13.4 Each Owner shall furnish and be responsible for, at their own expense, all of the maintenance, repairs and replacements within their own Unit and of any portion of the air-conditioning and heating system which exclusively services their Unit, including but not limited to all plumbing and electrical connections; and each Owner shall keep their patio areas and balcony, if any, in a neat clean and attractive condition. If, due to the willful or negligent act of an Owner or a member of the Owners' family or guest or other authorized occupant or visitor of such Owner, or other person for whom such Owner may be responsible, or household animal, damage shall be caused the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then such Owner shall pay for such damage and for such maintenance, repairs and replacements as may be determined by the Board. Such obligation of payment and performance shall be payable together with interest, costs and attorneys' fees and shall be considered an Assessment to the Owner(s).

13.4.1 In the event any Owner fails to repair their Unit within the time specified in this Declaration or the time specified by the Board and in the event the Board of Directors shall determine that it is necessary to perform repairs, the Board of Directors or an authorized agent of the Board, upon reasonable notice to the Unit Owner, may enter the Owner's Unit and make such repairs as necessary. The cost of such repairs shall be charged to the Unit Owner, and shall be considered an Assessment to the Owner(s).

13.4.2 In cases of emergency when the Board of Directors deems it necessary or advisable for the enforcement of any restriction herein above set forth, the Board shall have the authority to effect emergency or other necessary repairs or otherwise for the protection and preservation of that Unit or other Units. In addition, the Board of Directors or its authorized agents may enter any Unit at any time when any director or agent believes in their discretion that an emergency exists and that such entry is necessary in order to protect any person or property in such Unit or adjoining Units or for other good cause. In the event that emergency action is taken pursuant to this Section 13.4.2, the Board may, but shall not be required to, provide the Unit Owner with any advanced notice.

#### **ARTICLE XIV**

14. Alterations, Additions or Improvements or Divisions No alterations of any Common Elements, any additions or improvements or any alterations, additions or improvements to the patios or balconies associated with any Unit, and/or any structural alterations within a Unit, including, but not limited to electrical and/or plumbing work shall be made by any Owner without the prior written approval of the Board. The Board of Directors may require the Owner to use a licensed contractor for any improvements requiring a contractor. Any Owner may make non-structural alterations, additions or improvements within the interior of their Unit (but excluding for purposes of the authority herein granted any patio or balcony) without the prior written approval of the Board, but such Owner shall be responsible for any damage to other Units, the Common Elements, or the Property which may result from such alteration, addition or improvement. Any flooring alterations must comply with the requirements of Article XV.

Except for Units that were combined prior to April 3, 1978, no new combination of Units shall be allowed or permitted.

#### **ARTICLE XV**



15. Decorating: Notwithstanding Article XIV of this Declaration, each Owner, at their own expense, shall furnish and be responsible for all of the decorating within their own Unit (but any furnishing or decorating of any patio or balcony shall be subject to the provisions of this Declaration) from time to time, including painting, wallpapering, washing, cleaning, paneling, floor coverings, draperies, window shades, curtains, lamps and other furniture and interior decorating. Notwithstanding any other provision hereof to the contrary, no Owner may install reflective or mirror window coverings or coatings. Each Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors and ceilings and the surfaces within their Unit, and each Owner shall have the right to decorate such surfaces from time to time as they may see fit at their sole expense. However, each Owner shall maintain such surfaces in good condition.

15.1 No modification to the patio or balcony, including painting of the walls, modification of the railing, installation of shades, screens, partial or complete glass enclosure, may be made without the written consent of the Board.

15.2 Any modification to the color of any Limited Common Property, including the balcony and/or patio walls, windows and balcony shades shall be compatible with the overall color of the outside of the building(s).

15.3 The Board may create requirements limiting the type or color of any installation or decoration to a Unit Patio, Balcony, Window(s) or Patio Door(s) that may be seen from outside the Building, but any such requirement(s) shall meet that of section 15.2.

15.4 If a Unit Owner replaces any plumbing fixtures in the Unit, the replacement plumbing must comply with the requirements of Scottsdale Shadows V, Inc. Board of Directors Resolution Regarding Damage to Units, Insurance Deductibles, and Water Leak Prevention Water Resolution, dated 25 October 2016.

15.5 Each Owner(s) shall install and maintain at all times, at their expense, carpeting and/or other sound conditioned floor covering in all areas of the Unit, other than in the kitchen, laundry room(s) and bathrooms. The grades and qualities of sound conditioned flooring and underlayment are defined in the Bylaws or Rules and may be changed by the Board from time-to-time. Upon sale of any Unit, in the event that the flooring existing at the time of the sale does not conform to the sound conditioned requirements adopted by the Board and then in effect and there is noise complaints as described in 15.5(b), the Board reserves the right to require the flooring to be brought into compliance with the then existing sound conditioned requirements.

- a. The installation of any flooring other than carpet in any rooms other than bathroom(s) or kitchen must be approved in writing by the Board of Directors.
- b. Owners who do not have carpeting or approved sound conditioned flooring in areas other than their kitchen, laundry room(s) or bathroom(s) at the time this Amended Declaration is recorded, may be required by the Board to remediate transmitted sound when:
  - i. The Board and/or RCI receives and verifies noise complaints associated with the non-compliant flooring.
  - ii. The Board determines that the number of complaints constitutes an interference with the complaining occupants quiet enjoyment of their Unit.
  - iii. The Board, through the Bylaws and/or Rules, shall establish a procedure for Unit Owner's with non-compliant flooring to mitigate excessive sound transmission from non-compliant flooring of a Unit.

- iv. The Board shall establish and publish the allowed mitigation time and the fine for any Owner who does not correct excessive noise transmission from non-compliant flooring in the Owner's Unit within the published time.
- c. The Board shall determine the minimum sound isolation rating of any flooring installed in areas other than kitchen, laundry room(s) or bathrooms. The sound isolation requirement shall be published by the Board so that any Owner seeking the required Board approval of such an installation shall be informed in writing of the requirement specification. Both the Owner and any contractor involved in flooring installation shall sign an affidavit that the flooring sound isolation specification meets the requirement.

15.6 The Board shall have the right and authority to establish fines and remedies to ensure compliance by Owner(s) of the requirements of Article XV. The fines and remedies shall be voted on by the Board and published in the By-Laws or Rules. Fines shall be an assessment to the Owner(s).

## **ARTICLE XVI**

16. Encroachments. If any portions of the Common Elements shall actually encroach upon any Unit, or if any Unit shall actually encroach upon any portions of the Common Elements, or if any Unit or entryway provides ingress and egress thereto or therefrom shall actually encroach upon another Unit or entryway, as the Common Elements and the Units are shown on the appropriate Plat, whether such encroachment results from the initial construction or from subsequent repair; reconstruction, settlement or shifting, there shall be deemed to be mutual easements in favor of the Owners of the Common Elements and the respective Owners involved to the extent of such encroachment so long as the same shall exist; provided, however, that no such easement shall result from the misconduct of the Owner claiming entitlement thereto. The Association shall at all times have the right to maintain any Common Element now existing or hereafter constructed, regardless of any encroachment now or hereafter existing of any such Common Element on any Unit.

## **ARTICLE XVII**

17. Use and Occupancy Restrictions: No part of the Property shall be used other than for residential purposes and the related common purposes for which the Property was designed. No Unit within the Property shall be further subdivided or separated into smaller Units or parcels by any Owner, and no portion less than all of the Unit nor any easement or other interest therein, shall be conveyed or transferred by any Owner. This includes installation of temporary or permanent walls or other separators (including furniture) meant to or resulting in creation of a separate living space or Unit.

17.1 Rental Restrictions: No Owner shall permit their Unit to be used for transient or hotel purposes, which shall be defined as any lease or rental for a period of less than ninety (90) continuous days or three (3) continuous months whichever is greater, or shall lease less than the entire Unit.

A Unit Owner must be the Record Owner of a Unit for a minimum of 365 consecutive days or one (1) continuous year, whichever is greater, before leasing their Unit. All leases shall be for a minimum of 90 continuous days or three (3) continuous months, whichever is greater, or another period established by the Board. But any period established by the Board shall be for a minimum of 90 continuous days or three (3) continuous months, whichever is greater, and become in force separately on the expiration of each separate existing lease. Notwithstanding both time restrictions above, any Unit that is registered with the Maricopa County Recorder as a rental property on the date this Declaration is recorded may continue with

any lease or lease arrangement until its expiration or upon the transfer of title of the Unit by the person(s) who are Owners as of the date of recording of this amendment, whichever comes first.

A title change due to transfer of title to a trust owned or controlled by the original Owner(s) shall not be treated as a sale of the Unit for purposes of this provision. Time period restrictions do not apply to family members. Family members are defined as spouse, natural born or adopted children, siblings, parents, grandparents, grandchildren, and mother-in-law and father-in-law. Title transfers to family member(s) have the same restrictions as those due to a sale to any other person or entity.

17.2 The Owner shall provide to the Association the following information regarding the tenant(s), as allowed by Arizona law:

- a. The Owner's name, permanent address and phone number;
- b. The Building Number and Unit Number being rented or leased.
- c. The Owner shall notify the Association of the name and contact information for any adults occupying the unit;
- d. The time period of the lease, including Unit number, the beginning and ending dates of the tenancy; and.
- e. A description of, and the license plate numbers of the tenants' vehicle(s).

17.3 The Owner may designate a third party to act as the Owner's agent with respect to all Association matters relating to the Unit being leased, except for voting in Association elections and serving on the Board of Directors. Any designation of a third-party shall be in writing and contact information provided to the Association or Management Company, as determined by the Board. That contact information shall include the third-party agent name, address and telephone number. The Board may, but is not required to, determine a fine per lease for failure to provide such information not to exceed that as provided by law and published in the Rules. No Unit shall be leased by an Owner, and no landlord-tenant relationship established unless the landlord and Lessee have providing written confirmation to the Board or Management Company that the lease is subject in all respects to the provisions of this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association and Rules of the Association. The Association shall be permitted to charge the maximum fee allowed by Arizona law for each new tenancy and the Association may (but has no obligation to) suspend the barcode or other access to Communal Areas upon expiration of a lease.

17.4 Any violation of this Section will result in a daily monetary penalty of an amount as determined by the Board and changed from time-to-time. The amount of the penalty shall be published in the Rules and not to exceed any limit as provided by law. Said monetary penalty shall be included in the Assessment Lien established pursuant to this Declaration.

17.5 Roommate: A Unit Owner must be an occupant of the Unit if they have a non-family member as defined in Section 17.1 occupying the Unit at the same time (a roommate.) The Unit Owner shall provide the information of items (i) and (ii) below to the Board and that information shall be kept as a record by the Board Secretary, or if the Board approves, in the Management Company file (RCI). The following information shall be provided:

- i. Owners' name, Building Number, Unit number and Owners' phone number; and
- ii. Roommate's name, vehicle information and phone number

17.6 No common partition wall, ceiling or floor between any two adjoining Units, patios or balconies may be altered to afford ingress and egress to and from such adjoining Units, patios or balconies.

17.7 The Owner, Lessee, or Occupant of a Unit may conduct a business activity within a Unit so long as:

- (a) The existence or operation of the business activity is not apparent or detectable by sight, sound, vibration or smell from outside the Unit;
- (b) The business activity conforms to all applicable zoning ordinances or requirements for the Condominium.
- (c) The business activity is conducted solely in the Unit;
- (d) The business activity does not involve persons coming to the Unit or the door-to-door solicitation of Owners, Lessees, or Occupants; and
- (e) The business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other Owners, Lessees, or Occupants, as may be determined from time to time in the sole discretion of the Board of Directors.

17.8 The terms "business" and "trade" as used in this Section shall be construed to have 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 or does generate a profit; or
- (c) A license is required for such activity.

The leasing of a Unit by the Owner thereof shall not be considered a trade or business within the meaning of this Section.

17.9 The Common Elements shall be used only for access, ingress and egress to and from the respective Units by the Owners residing therein, members of their household and their guests, household help; including other authorized visitors, such as but not limited to, contractors, moving company personnel and for such other purposes as are incidental to the residential use of the Units. Owner(s) may not install decorations on the hallway carpets or elevator lobbies, first floor entrance lobby or garage entrance lobby and/or any other Common Elements, Common Areas and/or Communal Areas but an Owner or Lessee may install decorations on their Unit door. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Owner.

The Board shall publish a fine schedule in the Rules for any Unit Owner that causes damage to any Common Property. The Unit Owner(s) are responsible for damage caused to any Common Property by a renter, lessee, invitee, guest, family member, household pet(s) and/or occupant of the Owners' Unit, or by a contractor or moving company hired by the Owner, lessee or renter.

17.10 No Owner shall keep or maintain anything or shall suffer any condition to exist on or in their Unit or cause any other condition on the Property which materially impairs any easement or right of any other Owner or otherwise materially impairs or interferes with the use and enjoyment by the Owners of their Units and the Common Elements. The Board of Directors shall have sole discretion in determining whether a violation of this Section has occurred.

17.11 The Association is a no animal building(s), excepting those allowed by Federal and/or Arizona Law, and is permitted, the keeping of one domestic, indoor cat or caged bird. Such animals are subject to the Rules and Regulations adopted by the Board of Directors and Recreational Center, Inc (RCI), provided that such animals are not kept or maintained for commercial purposes or for breeding; and provided, further, that any such animal causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Property upon written notice from the Board of Directors. Furthermore, any animal must be registered with Recreational Center, Inc. (RCI) and, except for birds, have rabies vaccinations yearly with proof from a licensed veterinarian of such vaccination. Such proof shall be presented to both the Board and RCI each year. Approved animals, not designated as indoor animal, shall be taken to a sanitary area designated by the RCI Board of Directors. A responsible person must accompany the approved animal(s). Owners of approved animals are responsible for maintaining proper sanitation in regard to them and must immediately remove and properly dispose of any droppings or excrement from them in any areas of the Property, including the sanitary area designated for that purpose.

- a. When an approved dog is not in the Owners' Unit and is on either Association or RCI property, the dog shall be leashed at all times. The Board may, but is not required to, publish the maximum leash length and the fine payable by the Unit Owner, for when the Owner or Lessee's leash length does not conform to the leash length specified in the Rules or when the dog is not on leash when the dog is not in the Owner(s) or Lessees Unit.
- b. The Board and/or RCI shall publish a list of approved animals in the Rules. Any resident who keeps or maintains an approved animal in a Unit shall be deemed to have indemnified and agreed to hold the Association free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal within the Property. The Board of Directors may establish reasonable fees for registration of animals not to exceed the additional costs incurred by the homeowners resulting from the presence of such animal. The Board of Directors may also, in its discretion, establish additional animal fees as allowed by local and state laws, including costs associated with animal waste DNA collection and testing. No animal shall be housed or maintained anywhere on the premises of the Property except in an Owners' individual Unit. Any animal found in a building or on the grounds of the Property which is not accompanied by its owner or caretaker and is not registered with RCI may be deemed to be a stray animal and may be subject to impoundment. If such an animal has tags with identifying information, RCI should attempt to contact the owner of such an animal before confiscation of the animal. Further, nothing in this Section shall prohibit an Owner from having an animal to be in compliance with Federal Law.

17.12 If the Board determines that any motor vehicle is creating loud or annoying noises by virtue of its operation within the Property such a determination shall be conclusive and final that the operation of such vehicle is a nuisance, and said operation, upon notice by the Board to the owner or operator thereof, shall be prohibited within the Property.

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

17.14 No signs may be displayed or placed on any Unit except those notifying emergency personnel of the existence of animals, infirmed people and/or a similar situation within a Unit and/or any other signage

specifically authorized by applicable Arizona or Federal law. Any such signs shall comply with applicable Arizona State law.

17.15 Except as initially installed by Declarant, or previously installed by the Association as of the date this Declaration is recorded, no spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any building, structure, balcony or patio which in any manner will allow light to be directed or reflected on the Property or the Common Elements, or any part thereof, or any other Unit.

- a. Any holiday decorations and/or lighting allowed by this section must be removed no later than ten (10) days after the holiday. The Board may, but is not required to, determine a fine for non-compliance with this section and the rule and amount of the fine shall be published in the Rules.
- b. No open flames or charcoal cooking devices shall be allowed on any Unit balcony or patio.

17.16 No window or portable air-conditioners of any kind shall be installed in any Building.

17.17 No reflective materials including, but not limited to aluminum foil, reflective screens or glass, mirrors, or similar type items, shall be permitted to be installed or placed on the outside or inside of any windows. The Board has the option, but not the obligation, to create and publish rules and requirements for design, color and manner of installation of enclosures, shades, screens or other items affecting the exterior appearance of any patio or balcony. The Board, from-time-to-time, may change the requirements, but any approved/authorized existing installation shall be considered grandfathered. Any change to a grandfathered installation shall conform to the rules and requirements, as they then exist at the time of the proposed change.

17.18 All antennas, including but not limited to, video antenna satellite dishes that are no larger than one (1) meter in diameter and conform to Federal Law, must be contained entirely within the perimeter of the balcony or Unit. Cable installation from the Common Elements must be approved by the Board in writing, may not be observable from the Common Element hallway or lobbies, or mounted to any building exterior surface. TV antennas, and wireless cable antennas are permitted within a Unit. Wireless cable antennas must not interfere with wireless reception in other Units and must meet FCC requirements.

17.19 In addition to the restrictions set forth herein, Board of Directors may, from time to time, adopt, amend and enforce rules and regulations and resolutions relating to the governance of the Property, the use of a Unit by an Owner and the use of the Common Elements. Said rules and regulations and resolutions shall have the same force and effect of this Declaration and are incorporated into this Declaration.

17.20 Each Unit and the Common Elements has a sprinkler system and the sprinkler system has the potential for water damage to the Owner's Unit, adjacent Units and Common Elements. Therefore, the Board has the option, but not the obligation, to create resolutions, rules and regulations defining the responsibility of the Unit Owners toward maintenance of the sprinkler system in each Unit.

17.21 The Board has the option, but not the obligation, to establish through resolutions, rules and regulations the Owners' responsibility and requirements for plumbing devices and plumbing connections that are solely within their Units and the Owners' responsibility to pay for repair of any damage caused to their Unit, other Units or Common Elements caused by water damage from their Unit.

17.22 The Board has the option, but not the obligation, to establish through resolutions, rules and regulations the Owners' responsibility and requirements for preventing damage to any Common Property used for

egress or ingress of the Owner's Unit. This includes, but is not limited to, stairways, hallways, elevator, first floor and garage level lobbies.

17.23 The Association provides an assigned storage locker at the time of purchase for each Unit. The locker is for the exclusive use of the Unit Owner. Owners may not use any locker other than the one assigned. Owner(s) shall not store anything in a locker that could cause damage to another storage locker, a Unit or Common Elements. Prohibited materials include, but are not limited to, flammable materials, explosive materials and/or corrosive chemicals. The Association shall not be responsible for damage to or theft of anything stored in the provided lockers, including but not limited to damage from the Association sprinklers and/or Common Element plumbing. Neither an Owner or the Board may lease or rent a storage locker to anyone not a member of The Association.

Unit Owners are responsible for damage to another Unit, another storage locker or Common Property that originates in the Unit Owner's storage locker.

### **ARTICLE XVIII**

18. Architectural Control: No building, fence, wall, antenna, tower, awning, sign or other structure of any kind or character shall be commenced, erected or maintained upon the Property; nor shall any exterior addition, change or alteration be made thereto or therein, including without limitation to any exterior wall or balcony, whether or not part of any Unit, which is visible from the exterior of the Building, and no additions to, changes in or alterations of landscaping, grade or drainage shall be made, until plans and specifications showing the nature, kind, color, shape, height, materials, location and other material attributes of the same shall have been submitted to the Association and approved by the Association in writing as to harmony of external design and location in relation to surrounding structures and topography. The Association has the option, but not the obligation, to create resolutions, rules and regulations governing the above.

No object, which in the sole opinion of the Board of Directors is unsightly or objectionable, shall be placed, hung, or permitted on any patio or balcony. Cleaning and maintenance of finished Interior walls, floors and ceilings of each patio and balcony shall be the responsibility of the owner of the Unit to which said patio and balcony is appurtenant, provided, however, that painting or decorating of said walls and ceilings must have prior written approval of the Board of Directors in accordance with the requirements of Article XV.

### **ARTICLE XIX**

19. Party Walls: The rights and duties of the Owners of Units with respect to party walls shall be as follows:

- (a) Each wall, including patio and balcony walls, which is constructed as part of the original construction of any structure any part of which is placed on the dividing line between separate Units or Common Property shall constitute a party wall. With respect to any such party wall, each of the adjoining Owners shall assume the burdens and be entitled to the benefits of these restrictive covenants. In addition, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied. Common Property Party Walls are those between an Owner(s) Unit and the Common Property Hallway, Elevator Shaft, Storage Locker Rooms, Laundry Rooms, Elevator Lobbies, First Floor Lobby and Stairwells.
- (b) In the event any party wall is damaged or destroyed through the act of the Owner of one adjoining Unit, or any of their guests, tenants, guests, invitees, licensees, agents or members of their family or other person for whom such Owner is responsible (whether or not such act is

negligent or otherwise culpable) so as to deprive the other adjoining Unit or Common Property of the full use and enjoyment of such party wall, then the Owner responsible for such damage shall forthwith at their sole expense proceed to rebuild or repair the same in as good condition as formerly.

- (c) In the event any party wall separating two Units is damaged or destroyed due to ordinary wear and tear and deterioration from lapse of time, or by any cause other than the set of one of the adjoining Owners, their agents, tenants, licensees, guests or family or other persons for whom such Owner is responsible, then both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good a condition as formerly at their joint and equal expense. If a party wall divides a Unit from Common Property, the Unit Owner and Association shall proceed forthwith to rebuild or repair the same to as good a condition as formerly at their joint and equal expense.
- (d) Any Owner who by their negligent or willful act or by the negligent or willful act of any guest, tenant, licensee, agent or member of their family or other persons for whom such Owner is responsible, causes any party wall to be exposed to the elements shall at their sole expense furnish the necessary protection against such elements.
- (e) The right of any Owner to contribute from any other Owner under this paragraph shall be appurtenant to the land and shall pass to the successors in title of each such Owner.
- (f) In addition to satisfying the other requirements of this Declaration, any Owner proposing to modify, make additions to or rebuild their Unit 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 Association. Such alterations shall be completed in accordance with the provisions of any building code or similar regulations or ordinances.
- (g) These covenants shall be binding upon the heirs and assigns of any Owners, but no person shall be liable for any act or omission of a previous Owner except as herein expressly provided.
- (h) Each Owner shall be solely responsible for general maintenance, including, but not limited to, painting of the surface of the side of the party wall that faces their Unit.

## **ARTICLE XX**

20. Roof Leaks or Repairs: The Association shall maintain properly and repair promptly all leaks or other damage to the roofs on any of the Buildings and shall have an obligation to repair the roofs or membranes of the underground parking garage. Damage to a Unit caused by a roof leak shall be repaired by the Unit Owner at the Unit Owners' own expense, except for damage to the ceiling required to address a roof repair. The Association is not responsible for damage to anything in a Restricted Garage parking Space or Garage storage locker caused by water and/or rain damage. Owners of Restricted Parking Spaces(s) assume the risk of parking a vehicle or storing any item in any the Restricted Parking Space or Storage Locker. Leaks are to immediately be reported to the Association. Until and while leaks from the roof or plumbing of the Restricted Garage are being repaired the Owner of any property located in the Restricted Garage or Garage Locker is responsible for protecting the Owners property from the existing leak.

## **ARTICLE XXI**

21. Remedies: In the event that any Owner shall fail to comply with the provisions of the Act, this Declaration, the Articles of Incorporation the Bylaws, resolutions or the rules and regulations of the Association, the Association shall have each and all of the rights and remedies provided for in the Act, this Declaration, the Articles, the Bylaws, resolutions or rules and regulations, or which may be available at law or in equity and may prosecute any action or other proceedings against such Owner for enforcement of such provisions of foreclosure of its lien, or injunctive relief; or specific performance, or judgment for payment



of money and collection thereof, all without notice and without regard to the value of such Unit or the solvency of such Owner. All expenses of the Association in connection with any such action or proceeding, including court costs and all attorneys' fees whether or not suit is filed, and other fees and expenses and all damages, liquidated or otherwise, shall be charged to and assessed against such defaulting Owner.

## **ARTICLE XXII**

22. Amendment: The provisions of this Declaration may be changed, modified or rescinded by obtaining the approval or written consent of Owners representing sixty-seven percent (67%) of the allocated votes in the Association.

22.1. Notices: Notices provided for in the Act, this Declaration, or the Bylaws that are required to be mailed shall be addressed to the Unit Owner's Association property address, unless a Unit Owner designate a different address in writing; or, may be hand-delivered to the Owner by a member of the Board of Directors. Notices that are mailed or hand delivered shall include a form that certifies receipt of the document(s) by the Owner or Owners authorized representative. The Owner or Owners Representative shall sign and date the form, certifying receipt of the document(s) and return the signed form to the Association within a period to be established by the Board and published in the Rules. The signed form shall be kept in the permanent records of the Association.

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

22.3 Rights and Obligations: Each Owner by the acceptance of a deed of conveyance accepts the same subject to all restriction, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed, shall be deemed and taken to be covenants running with the land and equitable servitudes and shall be binding upon and shall inure to the benefit of any grantee, purchaser or any person having at any time any interest or estate in said land in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, purchase contract or other instrument of transfer, and each such grantee shall be entitled to bring, and shall be subject to, an action for the recovery of damages, or for injunctive relief, or both, resulting from any breach of any such provisions.

22.4 Utility Easements: Notwithstanding any other provisions hereof, there is hereby created a blanket easement upon, across, over and under the Parcel and Common Elements for ingress, egress, installation, replacing, repairing and maintain all utility and service lines and systems, including without limitation water, sewer, gas telephone, electricity, television cable and communication lines and systems. By virtue of this easement; it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on the Property and to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of the Buildings; provided, that no such utility and service line or system may be installed or relocated on said Property except as initially programmed and approved by

Declarant or as thereafter approved by Declarant or by the Board of Directors of the Association. This easement shall in no way affect any other recorded easements on the Property.

22.5 Professional Management Agreement: Any Agreement for professional management of the Association or any contract providing for services to be performed by Recreational Center, Inc. for the Association shall provide for termination by either party with or without cause and without payment of a termination fee on thirty (30) days written notice, and no such contract or agreement shall be of a duration in excess of one (1) year, renewable by agreement of the parties for successive one (1) year periods.

22.6 Easement of Recreational Center, Inc.: There has been deeded to Recreational Center, Inc. all of the private roadways and portions of the real property described in the Plat for the purpose of providing recreational facilities for the Association and for the councils of co-owners of the other condominium associations created or planned to be created on such real property, including without limitation a recreational building, golf course, swimming pools, and tennis courts. Recreational Center, Inc. is to own, develop, operate and manage all such facilities and areas for the Association and the councils of co-owners of each and all such other condominium associations. Recreational Center, Inc. is hereby granted an easement over and on top of the location shown for underground garages on the Plat for the purpose of installing, maintaining, operating and managing such recreational facilities.

22.7 Rights and Duties of Association in Recreational Center, Inc.: The Association is a member of Recreational Center, Inc., and holds a percentage interest in Recreational Center, Inc. equal to the proportion and ratio which the square footage of all Units in the Association bears to the square footage of all Units in all of the condominium associations, which are members of Recreational Center, Inc.. Each such condominium association which is a member of Recreational Center, Inc., including the Association, will also be assessed by Recreational Center, Inc., and will pay, in the same proportion as the percentage interest of such condominium association and Recreational Center, Inc., for all costs and expenses incurred by Recreational Center, Inc. from an after the date such membership commences. Such proportionate share of the costs and expenses of Recreational Center, Inc. shall be assessed to the Owners by the Association as Common Expenses.

The obligation of each Unit in the Association to pay its share of such costs and expenses to Recreational Center, Inc., in the event the Association shall fail to do so when due, shall be direct and primary, and Recreational Center, Inc. shall have the right to assert and enforce a lien against each Unit in the Association therefore; provided, however, that Recreational Center, Inc. shall not have or be entitled to enforce a lien against any Unit the Owner of which shall have paid his proportionate share of such costs and expenses of Recreational Center, Inc. to the Association or to Recreational Center, Inc. Such lien or liens shall be effective only upon recordation of a notice thereof in the office of the County Recorder of Maricopa County. A copy of such notice shall be posted on each Unit subject thereto within three (3) days after such recordation, Any action brought to foreclose such lien shall be commenced within one (1) year after the date of such recordation and shall be foreclosed in any manner provided or permitted by the laws of the State of Arizona for the foreclosure of real property mortgages or deeds of trust. The lien herein provided shall be subordinate to the lien of any prior recorded First Mortgage acquired in good faith and for value on the applicable Unit.

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

non-enforcement by the Association of any of the provisions set forth in this Declaration, for any reason, shall not act in any way to waive the right of the Association to enforce such provision in the future.

**ARTICLE XXIII**

23. Board Determination is Binding: In the event of any dispute or disagreement between any Owner or Owners relating to the Property, or any question of interpretation or application of the provisions of this Declaration, the Articles, Bylaws or Rules the determination thereof by the Board shall be final and binding on each and all of such Owners.

23.1. Disputes Between Owners: The Board shall not become involved in disputes between Owners, except as otherwise required by applicable laws and/or as otherwise determined by the Board to be in the best interests of the Association.

**IN WITNESS WHEREOF**, Scottsdale Shadows V, Inc., an Arizona nonprofit corporation, has executed this Amended and Restated Declaration as of the day and year first above written.

**SCOTTSDALE SHADOWS V, INC.**  
an Arizona nonprofit corporation

By: \_\_\_\_\_  
Its: President

State of Arizona                    )  
  ) ss.  
County of Maricopa                )

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, the President of Scottsdale Shadows V, Inc., an Arizona nonprofit corporation, for an on behalf of the corporation.

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

My Commission Expires:

## EXHIBIT A

Unit #	Percent of Whole
5A -101	.63
5A-102	.63
5A-103	.50
5A -104	.50
5A -105	.63
5A -106	.47
5A -107	.47
5A -108	.62
5A -109	.63
5A -110	.63
5A -111	.8
5A -112	.47
5A -201	.73
5A-202	.63
5A-203	.50
5A -204	.50
5A -205	.63
5A -206	.47
5A -207	.47
5A -208	.62
5A -209	.63
5A -210	.63
5A -211	.80
5A -212	.55
5A -301	.73
5A-302	.63
5A-303	.50
5A -304	.50
5A -305	.63
5A -306	.47
5A -307	.47
5A -308	.62
5A -309	.63
5A -310	.63
5A -311	.80
5A -312	.55
5A -401	.73
5A-402	.63
5A-403	.50
5A -404	.50
5A -405	.63
5A -406	.47
5A -407	.47
5A -408	.63

5A -409	.64
5A -410	.64
5A -411	.80
5A -412	.55
5A -501	.73
5A-502	.63
5A-503	.50
5A -504	.50
5A -505	.63
5A -506	.47
5A -507	.47
5A -508	.63
5A -509	.64
5A -510	.64
5A -511	.80
5A -512	.55
5A -601	.73
5A-602	1.15
5A-604	.50
5A -605	.63
5A -606	.47
5A -607	.47
5A -608	.63
5A -609	.64
5A -610	.64
5A -611	.80
5A -612	.55
5A -701	.73
5A-702	1.15
5A -704	.50
5A -705	.63
5A -706	.47
5A -707	.47
5A -708	.63
5A -709	.64
5A -710	.64
5A -711	.80
5A -712	.55
5B -101	.47
5B-102	.81
5B-103	.63
5B -104	.63
5B -105	.80
5B -106	.73
5B -107	.63
5B -108	.50
5B -109	.50
5B -110	.63

5B -111	.63
5B -201	.55
5B-202	.81
5B-203	.63
5B -204	.63
5B -205	.80
5B -206	.73
5B -207	.63
5B -208	.50
5B -209	.50
5B -210	.63
5B -211	.72
5B -301	.55
5B-302	.81
5B-303	.63
5B -304	.63
5B -305	.80
5B -306	.73
5B -307	.63
5B -308	.50
5B -309	.50
5B -310	.63
5B -311	.72
5B -401	.56
5B-402	.81
5B-403	.63
5B -404	.63
5B -405	.80
5B -406	.73
5B -407	1.15
5B -409	.50
5B -410	.63
5B -411	.73
5B -501	.56
5B-502	.81
5B-503	.63
5B -504	.63
5B -505	.80
5B -506	.73
5B -507	1.15
5B -509	.50
5B -510	.63
5B -511	.73
5B -601	.56
5B-602	.81
5B-603	.63
5B-604	.63
5B -605	.80

5B -606	.73
5B -607	1.15
5B -609	.50
5B -610	.63
5B -611	.73
5B -701	.56
5B-702	.81
5B - 703	.63
5B -704	.63
5B -705	.80
5B -706	.73
5B -707	1.15
5B -709	.50
5B -710	.63
5B -711	.73
<b>Total</b>	<b>100.00%</b>