

BYLAWS
OF
TEMPE MICRO ESTATES HOMEOWNERS ASSOCIATION,
an Arizona nonprofit corporation

ARTICLE I
GENERAL PROVISIONS

Section 1.01. Name. The name of this nonprofit corporation (“**Association**”) is **Tempe Micro Estates Homeowners Association**.

Section 1.02. Known Place of Business. The known place of business of this corporation will be located initially at **511 West University Ave, Suite 4, Tempe, Arizona 85281**; however, meetings of Members and Directors may be held at any other place within the State of Arizona that may be designated by the Directors.

Section 1.03. Defined Terms. Terms used but not defined in these Bylaws will have the meanings ascribed to them in the Declaration of Covenants, Conditions, and Restrictions for Tempe Micro Estates that was recorded on _____, 2019 as Document No. 2019-_____, the Official Records of Maricopa County, Arizona (“**Declaration**”). .

Section 1.04. Conflicting Provisions. If there is any conflict between the Articles of Incorporation (“**Articles**”) for the Association and these Bylaws, the terms of the Articles will control. In the case of any conflict between the Declaration and these Bylaws, the Declaration will control.

Section 1.05. Designation of Fiscal Year. The fiscal year of the Association will begin on the 1st day of July and end on the 30th day of June of every year, except that the first fiscal year will begin on the date of incorporation of the Association.

Section 1.06. Books and Records. The Association will keep and maintain those books and records required under A.R.S. § 10-11601 *et seq.* The books and records of the Association (including the Project Documents) will be available for inspection by any Member or the Member’s authorized agents, Newtown CDC, Mortgagees, and their Agents and Attorneys, during reasonable business hours for a proper purpose at the known place of business of the Association as permitted under A.R.S. § 10-11602 through § 10-11605, inclusive. The books and records of the Association may be withheld from disclosure for any of the reasons specified in A.R.S. § 10-11602.F.

Section 1.07. Amendment. These Bylaws may be amended by a vote of the Members that are present in person at a regular or special meeting of the Members and that have greater than 50% of the total number of eligible votes.

Section 1.08. Open Meetings. Except in any of those instances enumerated under A.R.S. § 33-1804, all meetings of the Association and the Board of Directors of the Association (singularly or collectively, as applicable, referred to as the “**Board**”, “**Directors**”, or “**Director**”) must be open to all Members to attend and listen. In the case of meetings of the Board, Members who are not part of the Board, however, are not be permitted to participate in any deliberation or discussion of the Board unless

expressly authorized by vote of a majority of a quorum of the Board. The Board also may limit participation to eligible Members.

Section 1.09. Accounts. All funds of the Association shall be kept in accounts or deposits that are insured by agencies of the United States. The funds of the Association shall not be commingled with the funds of any other association. The reserve funds may be combined in one or more savings accounts, certificates of deposit, or other accounts or deposits. Withdrawal of reserve funds shall require the authorization of at least two persons who are Officers of the Board and the approval of Newtown CDC.

Section 1.10. Exemption of Private Property. The private property of each and every officer, Director, and Member of this Association at all times is exempt from all debts and liabilities of the Association.

ARTICLE II

MEETINGS OF MEMBERS

Section 2.01. Annual Member Meeting. The Association will hold annual meetings of the Members. The annual meetings of the Members will be held at the known place of business of the Association, unless a different location is designated by the Board of Directors. The first annual meeting of the Members will be held on _____, 20__, or at any other date designated by the Board of Directors; however, the first annual meeting of the Members must be held no later than one year after the date of the close of escrow on the first Lot sold by the Declarant to an Owner. The Association will hold subsequent annual meetings of the Members on the _____ of _____ at the hour of __:00 p.m., unless otherwise specified by written notice to the Members. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour of the next subsequent day that is not a legal holiday. The failure of the Association to hold an annual meeting of its Members, however, will not affect the validity of any corporate action.

Section 2.02. Special Member Meetings. Special meetings of the Members may be called at any time by the Facilitator or by a majority of the Board of Directors or by a written request signed by Members having at least ___% of the total number of eligible votes of Members in the Association.

Section 2.03. Notice of Member Meetings. Written notice of each meeting of the Members (annual or special) will be given by, or at the direction of, the Secretary or person authorized to call the meeting by hand delivery or by mailing a copy of each notice, postage prepaid, at least 10 days and not more than 60 days before the meeting to each Member entitled to vote at that meeting addressed to the Member's address last appearing on the books of the Association or supplied by the Member to the Association for the purpose of notice. The notice must specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. A Member may waive notice of the meeting before or after the date stated in the notice. Waiver of notice of the Member's meeting must be in writing, signed by the Member waiving notice, and delivered to the Association for inclusion in the books and records of the Association. By attending a meeting, however, a Member waives any right he/she may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Bylaws or the laws of the State of Arizona. The failure of any Member to receive actual notice of a meeting of the Members does not affect the validity of any action taken at that meeting.

Section 2.04. Member Quorum and Voting. Except as otherwise provided in the Articles, the Declaration, or these Bylaws, the presence (at the beginning of the meeting) in person of Members entitled to cast 50% or more of the total number of eligible votes in the Association constitutes a quorum

for the purposes of holding a duly called and noticed meeting of the Members. If a quorum is not present at any meeting, the Members eligible to vote at the meeting will have the power to adjourn the meeting and to reschedule the meeting to another date and time without additional notice other than announcement at the meeting. At any subsequent meeting, the presence (at the beginning of the meeting) in person or by proxy of Members entitled to cast at least ___% of the total number of eligible votes in the Association, regardless of class, constitutes a quorum for the subsequent meeting. The Members at the meeting may continue to adjourn and reschedule until a quorum is present. Except as otherwise provided in the Articles, the Declaration, or these Bylaws, any action that must have the approval of the Members of the Association before being undertaken will require the vote of greater than 50% of the Members present (in person or proxy) and voting at a duly called and held meeting of the Members at which a quorum is present. Whenever the terms “eligible” votes or “eligible” Members are used in these Bylaws or the other Project Documents, both terms describe those Members that are permitted to vote on the matter and whose voting privileges have not been suspended or revoked. Unless the Project Documents specify otherwise, all approvals must be affirmatively given and may not be made in the negative or based on non-responses.

Section 2.05. Eligibility. The membership of the Association will consist of all Owners of Lots. Membership in the Association is mandatory, and no Owner during his ownership of a Lot will have the right to relinquish or terminate his membership in the Association. By accepting a deed to a Lot or otherwise becoming an Owner, each Owner enters into a contract with the Association and the other Owners whereby the Owner becomes a Member of the Association and is bound by the terms of the Declaration, Articles, Bylaws, and the other Project Documents, all as may from time to time be amended.

Section 2.06. Joint Ownership. When more than one person is the Owner of any Lot, all Owners will be considered Members in the Association. The vote for a Lot with multiple Owners will be exercised as they, among themselves, determine; however, no more than one vote may be cast with respect to any Lot. The votes for each Lot must be cast as a whole unit, and fractional votes are not allowed. If joint Owners are unable to agree among themselves as to how their vote or votes are to be cast, they will lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that the Owner was acting with the authority and consent of all other Owners of the same Lot. If more than one ballot is cast for a particular Lot, none of the votes will be counted, and the votes will be deemed void.

Section 2.07. Corporate Ownership. If any Lot is owned by a corporation, partnership, limited liability company, association, or other legal entity, that legal entity will be the Member and that legal entity must designate, in writing, at the time of acquisition of the Lot, an individual who has the power to vote for the Lot. In the absence of a designation and until a designation is made, the chief executive officer or managing partner or managing member, as applicable, of the corporation, partnership, limited liability company, association, or other legal entity will have the power to cast the vote for the Lot. If there is no chief executive officer or managing partner or managing member, the Board of Directors of the Association will have the power to designate the person authorized to vote.

Section 2.08. Suspension of Voting Rights. If any Owner is in arrears in the payment of any assessments or other amounts due under any of the provisions of the Declaration or the other Project Documents for a period of 15 days after its due date, the Owner’s right to vote as a Member of the Association will be suspended automatically and will remain suspended until all payments, together with accrued interest, late charges, attorney’s fees, and other applicable charges, are brought current and kept current. If there exists any non-monetary violation of the Declaration or the other Project Documents with respect to a Lot or an Owner, the Owner’s right to vote as a Member of the Association will be suspended automatically within 15 days after the Owner’s receipt of written notice from the Board of the

violation, and the right of the Owner to vote will remain suspended until the earlier of: (i) the cure of the violation by the Owner; or (ii) a decision by the Board under Section 3.11 of these Bylaws that no violation exists.

Section 2.09. Annual Budget. The Board of Directors shall recommend to the Association an annual operating budget, which shall be adopted at the annual meeting by the Association by a majority of those Homeowners present at the meeting. As part of the budget summary provided to Homeowners each year, the Board of Directors shall, to the best of its ability, summarize the strength of the Association's reserve account including the current balance, projected contributions, a comparison of the account's projected balance to the reserve study, and recommendations, if any, for changes to the monthly assessment.

ARTICLE III

BOARD OF DIRECTORS

Section 3.01. Number of Directors. The affairs of this Association will be managed by a Board of Directors. Except for the initial members of the Board of Directors that are designated under the Articles, the Board of Directors will be elected by the Members. Elections for the Board of Directors may be conducted in any one of the following manners: (i) by voice vote, roll call vote, hand vote, or written ballot at an annual meeting of the Members; or (ii) by written ballot indicated by mail. All Directors must be members of the Association. The Board originally will be composed of the 3 persons designated in the Articles. Thereafter, the Board will be comprised of three Directors or any greater, odd number as may be determined by the Board in accordance with the Articles.

Section 3.02. Board Term of Office. So long as the Board of Directors is composed of 3 persons, the Directors will hold office for one year and until their successors are appointed and qualified. The first term of the Directors will end as of the date of the first annual meeting of the Members, and each subsequent term will end on the date of each subsequent annual meeting of the Members. If the number of Directors is expanded beyond 3 Directors to any larger number permitted by the Articles, the additional Directors will serve one year terms.

Section 3.03. Removal and Resignation. At any annual or special meeting of the Members duly called, any one or more of the Directors comprising the Board of Directors may be removed from the Board with or without cause by Members having two-thirds (2/3) or more of the total number of eligible votes of the Members present in person at the meeting, and, at the meeting where the Director is removed, a successor may be elected to fill the vacancy created for the remaining and unexpired term. Any Director may resign at any time by giving written notice to the Board, the Facilitator, or the Secretary, and the resignation will be effective as of the date of its receipt or at any later time specified in this notice. If a resignation is effective at a later date, the Board may fill the vacancy before the effective date of the resignation so long as the successor does not take office until the effective date of the resignation.

Section 3.04. Compensation. No Director will receive compensation for any service rendered to the Association; however, any Director may be reimbursed for actual expenses incurred in the performance of his/her duties.

Section 3.05. Notice to Members of Board Meetings. Unless a Member makes a specific written request for individual written notice of Board meetings, written notice of any regular or special meetings of the Board need not be given specifically to each Member, but rather notice of any regular or special meeting of the Board may be given in any manner determined by the Board at least 48 hours in advance of the meeting including conspicuous posting on Common Area or other areas of the Project,

newsletter, reminder notices with assessment invoices, or calendaring. Written notice of regular or special Board meetings must be provided only to those Members who request so in writing. A Member's request for individual written notice of Board meetings, however, is valid only for one year and must be renewed in writing to entitle the Member to continue to receive individual written notices. The Directors also will have the right to take any action without holding a formal meeting by obtaining the unanimous written consent of all the Directors. All written consents of the Directors will be filed with the minutes of the proceedings of the Board.

Section 3.06. Vacancies on the Board. Vacancies on the Board caused by any reason other than the removal of a Director in accordance with the provisions of Section 3.03 of these Bylaws will be filled by a majority vote of the remaining Directors at the first regular or special meeting of the Board held after the occurrence of the vacancy, even though the Directors present at the meeting may constitute less than a quorum. Each person so elected will serve the unexpired portion of the prior Director's term.

Section 3.07. Regular Board Meetings. Regular meetings of the Board may be held at the time and place determined from time to time by the Board. Regular meetings will be held at least once during each fiscal year and must comply with Section 1.09 of these Bylaws.

Section 3.08. Special Board Meetings. Special meetings of the Board of Directors may be called by the Facilitator on three business days' notice to each Director, given in writing by hand delivery, mail, or teletype. This notice must state the time, place, and purpose of the special meeting. Special meetings of the Board may be called by the Secretary in like manner and on like notice upon the written request of at least two Directors.

Section 3.09. Quorum of Directors. A majority of the Directors present at the beginning of the meeting will constitute a quorum for the transaction of business. Unless otherwise specified by these Bylaws, the Articles, or the Declaration, every act or decision done or made by a majority of the Directors present at a duly-held meeting at which a quorum is present will be regarded conclusively as the act of the Board.

Section 3.10. Powers and Duties of the Board. All Association powers will be exercised by or under the authority of the Board of Directors. The Board will have all of the powers and duties necessary for the administration of the affairs of the Association and may exercise all rights and powers granted to the Association under the Project Documents and may perform all acts and make all decisions that are not required by the Project Documents to be exercised or performed by the Members. Specifically, but without limitation of the previous sentence, the Board will have the following powers and duties:

- (a) Open bank accounts on behalf of the Association and designate the signatories of the Association;
- (b) Make or contract for the making of repairs, additions, improvements, and alterations of the Common Area and Areas of Association Responsibility, in accordance with (and as specified in) the Declaration and Project Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- (c) In the exercise of its sole discretion, enforce by legal means the provisions of the Declaration and the Project Documents including, without limitation, the collection of any assessments;

(d) Designate, hire, and dismiss the personnel necessary for the maintenance, operation, repair, replacement of the Common Area and Areas of Association Responsibility and provide services for the Members, and, where appropriate, provide for the compensation of the personnel and for the purchase of equipment, supplies, and material to be used by the personnel in the performance of their duties;

(e) Provide for the operation, care, upkeep, and maintenance of all of the Common Area and Areas of Association Responsibility and any other areas within the Project that the Association is permitted or required to maintain;

(f) Prepare, amend, and recommend to the Association an annual budget for the Association prior to the commencement of each fiscal year;

(g) Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the Members and their family members, guests, lessees, and invitees on the Common Area and establish penalties for infraction;

(h) Suspend the voting rights and the right to the use of the Common Area of a Member during any period in which the Member is in default in the payment of any assessment or other amounts due under the terms of the Project Documents or during any period the Member is in non-monetary default of the Project Documents, subject to the applicable notice and grace periods established in these Bylaws;

(i) Exercise, on behalf of the Association, all powers, duties, and authority vested in or delegated to the Association and not reserved to the Members by Arizona law or the provisions of the Declaration or other Project Documents;

(j) Declare the office of a member of the Board of Directors to be vacant if a member is absent from three consecutive regular meetings of the Board;

(k) Employ, hire, and dismiss all employees of the Association as the Board deems necessary and to prescribe their duties and their compensation;

(l) Hire, employ, or terminate a manager, whether as an independent contractor or as an employee, and delegate to that manager the power to perform all services and duties as the Board may direct;

(m) Keep or cause to be kept a complete record of all acts of the Board and all corporate affairs and to establish procedures for inspections of the books and records of the Association by Members with a proper purpose for inspection, including establishing a reasonable fee (payable in advance) for all copies requested by a Member of the books and records;

(n) As more fully provided in the Declaration to: (i) fix the amount of the annual and special assessments against each Lot; (ii) send written notice of each assessment to every Owner subject to an assessment; (iii) assess a late charge for any late payments; (iv) record a notice and claim of lien against any Lot for which assessments are not paid; and (v) enforce, through foreclosure or any other permitted action, the Association's lien or the personal obligation of the Owner to pay assessments;

(o) Issue, or cause an appropriate officer to issue, upon demand, to any appropriate person, any required disclosure statement or payment statement, subject to the right of the Board to impose a reasonable charge for the issuance of these statements;

(p) Procure and maintain commercial general liability, hazard, and other insurance coverage in the amounts as required or permitted by the Declaration;

(q) Cause the Common Area and Areas of Association Responsibility to be maintained, as more fully set forth in the Declaration, and to pay all taxes levied on the Common Area;

(r) Institute, defend, and intervene in any litigation or administrative proceedings in its own name or on behalf of the Owners;

(s) Borrow money and, with the consent of two-thirds (2/3) of the total number of eligible votes of each class of Members in the Association, to mortgage, pledge, deed in trust, or grant a security interest in any or all of the Common Area;

(t) Enter into and perform contracts of any kind incidental to the performance of the Association's duties under the Project Documents; and

(u) Own, operate, and maintain all other property of the Association.

Section 3.11. Non-Monetary Violations. If a member of the Board of Directors become aware of a situation that potentially involves non-monetary violation/non-compliance with the CC&Rs, either through direct observation or a report from a Homeowner, the member will take the following steps. (1) The Board of Directors will investigate the situation. (2) If the Board of Directors find no evidence of non-compliance, they discuss their findings with the Homeowner who made the report. (3) If the Board of Directors determines that a Resident is out of compliance with the CC&Rs, they will discuss their findings with the responsible Homeowner and request his or her cooperation in taking the necessary corrective actions. (4) The enforcement and conflict resolution process will continue as described in the CC&Rs. Regardless of any other language in this document, the Facilitator may take immediate action to enforce any CC&R provision if the violation presents an immediate threat to health or safety. If the Homeowner does not immediately stop or otherwise correct the violation after being asked to, said Homeowner shall be responsible for reimbursing the Association or Newtown CDC for its costs in correcting the violation plus any fines as outlined in this document. The Homeowner shall be liable for all the Association's and Newtown CDC's costs and attorney's fees involved in drafting, filing, enforcing, foreclosing and removing any lien imposed.

Section 3.12. Committees of Board. The Board may appoint committees to study or handle specific matters of the Association so long as at least one member of the Board serves on the committee. Committees designated by the Board are not subject to the open meeting requirements of Section 1.09 of these Bylaws or Arizona law.

ARTICLE IV

OFFICERS AND THEIR DUTIES

Section 4.01. Enumeration of Officers. The principal officers of the Association will be the Facilitator, the Secretary, and the Treasurer all of whom will be elected by the Board.

Section 4.02. Election of Officers. The election of officers will take place at the first meeting of the Board following each annual meeting of the Members. The following persons will serve as the officers of the Association until their successors are qualified and elected:

Section 4.03. Officer Term. The officers of the Association will be elected annually by the Board, and each officer will hold office for one year unless he/she sooner resigns, is removed, or is otherwise disqualified to serve.

Section 4.04. Special Appointments. The Board may elect any other officers as the affairs of the Association may require, each of whom will hold office for the period, have the authority, and perform the duties as the Board may determine from time to time.

Section 4.05. Resignation and Removal of Officers. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the Facilitator, or the Secretary. Any officer resignation will take effect on the date of receipt of the resignation notice or at any later time specified in the notice, and, unless otherwise specified in the resignation notice, the acceptance of the resignation will not be necessary to make it effective. If a resignation is effective at a later date, the Board may fill the vacancy before the effective date of the resignation so long as the successor does not take office until the effective date of the resignation.

Section 4.06. Vacancies in Offices. A vacancy in any office may be filled by appointment by the Board. The officer appointed to the vacancy will serve for the remainder of the term of the officer replaced.

Section 4.07. Powers and Duties of Officers. In addition to the execution of any affidavit of notice or the preparation and delivery of any disclosure statement required under Arizona law, where and when delegated to the officers by the Board, the powers and duties of the officers are as follows:

(a) **Facilitator.** The Facilitator will preside at all meetings of the Board or the Members, ensure that orders and resolutions of the Board are carried into effect; and, at the direction of the Board, engage in the general and active management of the business of the Association;

(b) **Secretary.** The Secretary will record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal, if any, of the Association; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and perform all other duties as required by the Board; and

(c) **Treasurer.** The Treasurer will receive and deposit in appropriate bank accounts all monies of the Association and will disburse all funds as directed by resolution of the Board; keep proper books of account; and prepare an annual budget and a statement of income and expenditures of the Association; and, in general, perform all the duties incident to the office of Treasurer or as required by the Board and shall be the financial liaison between the Board and Newtown CDC. At least annually, the Treasurer shall prepare, or cause to be prepared, a financial statement of the Association.

ARTICLE V

INDEMNIFICATION

Section 5.01. Indemnification. The Association has the power and authority to indemnify any past or present Member, officer, Director, incorporator, employee, or agent of the Association to the fullest extent permitted by A.R.S. § 10-3202.B.2. and § 10-3850 *et seq.*, as these statutes (or any predecessor statutes) may be interpreted by applicable case law. This power of indemnification extends to third party actions and derivative actions, and includes indemnification for attorney fees, court cost, and other related expenses in addition to indemnification for judgment amounts.

Section 5.02. Procedure. The circumstances and procedures for effecting an indemnification by the Association will be governed by A.R.S. § 10-3850 *et seq.*, as this statute may be amended from time to time or supplemented by Arizona case law.

Section 5.03. Scope of Article. The indemnification provided by this Article V is not exclusive of any other rights to which those indemnified may be entitled under any agreement approved by the Members or a majority of the disinterested Directors or otherwise, both as to an action in the person's official capacity and as to an action in another capacity while holding the office.

Section 5.04. Limitation of Liability for Certain Acts. So long as he/she has acted or has failed to act in good faith on the basis of information actually possessed, neither the Architectural Committee nor any member of the Architectural Committee nor the Board nor any member of the Board nor any officer of the Association will be liable to the Association, any Owner, or to any other party for any damage, loss, or prejudice suffered or claimed arising out of: (i) the approval or disapproval of any plans, drawings, or specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (iii) the development of any portion of the Property; (iv) the execution and filing of any estoppel certificate, whether or not the facts in the estoppel certificate are correct; (v) any act or failure to act with respect to any matter involving the Project Documents; (vi) the failure to provide a statement or an accurate statement of the matters required under A.R.S. § 33-1806 or § 33-1807; (vii) the failure to approve any plans, drawings, and specifications; and (viii) the performance of any other function of the Board, the Architectural Committee, or any officer of the Association.

ARTICLE VI

ALTERNATIVE DISPUTE RESOLUTION

Section 6.01. Arbitration Rules. All Bound ADR Parties, as identified and defined below, agree to encourage the amicable resolution of claims, grievances, controversies, disagreements, or disputes involving the Project or the Project Documents in order to avoid or limit wherever possible the emotional and financial costs of litigation. Accordingly, each Bound ADR Party covenants and agrees that all Covered Claims, as defined below, between one or more Bound ADR Party must be resolved using the alternative dispute resolution procedures set forth below in this Declaration and the Bylaws in lieu of filing a lawsuit or initiating administrative proceedings. As used in the Project Documents, the term "**Bound ADR Parties**" means the Association, Board, any Owner, any property manager or association manager for the Project, all Owners, any tenant of an Owner, any family member residing in the Owner's Detached Dwelling Unit, and any person not subject to this Declaration who voluntarily agrees to be subject to the dispute resolution procedures described below. Unless they otherwise agree, Mortgagees and Institutional Guarantors are not Bound ADR Parties. As used in the Project Documents, the term "**Covered Claims**" means all claims, grievances, controversies, disagreements, or disputes that

arise in whole or part out of: (i) the interpretation, application, or enforcement of the Declaration or the other Project Documents; (ii) any alleged violation of the Project Documents by any of the Bound ADR Parties; (iii) the authority of the Association or the Board to take or not take any action under the Project Documents; (iv) the failure of the Association or the Board to properly conduct elections, give adequate notice of meetings, properly conduct meetings, allow inspection of books and records, or establish adequate warranty and reserve funds; or (v) the performance or non-performance by any of the Bound ADR Parties of any of their respective obligations or responsibilities under the Project Documents to or on behalf of any other Bound ADR Party. The term “**Covered Claims**”, however, specifically does not include any Exempt Claims of the type described below.

Section 6.02. Exempt Claims. The following claims, grievances, controversies, disagreements, and disputes (each an “**Exempt Claim**” and, collectively, the “**Exempt Claims**”) are exempt from the alternative dispute resolution provisions described in this Declaration:

(a) **Collection of Assessments.** Any action taken by the Association against any Bound ADR Party to enforce the collection of any Assessments, to enforce or foreclose any lien in favor of the Association, or to determine the priority of any lien for Assessments;

(b) **Specific Actions.** Any claim, grievance, controversy, disagreement, or dispute that primarily involves:

(i) Title to any Lot or Common Area;

(ii) A challenge to a property taxation or condemnation proceeding;

(iii) The eviction of a tenant from a Unit;

(iv) The breach of fiduciary duty by any one or more of the Board of Directors or officers of the Association;

(v) The rights of any Mortgagee or Institutional Guarantor;

(vi) An employment matter between the Association and any employee of the Association; or

(vii) The invalidation of any provision of the Declaration or any of the covenants and restrictions contained in the Project Documents.

(c) **Injunctive Relief.** Any suit by the Association to obtain a temporary or permanent restraining order or equivalent emergency equitable relief (together with any other ancillary relief as the court may deem necessary) in order to maintain the then-current status of the Project and preserve the Association’s ability to enforce the architectural control provisions of the Project Documents and the use restrictions contained in this Declaration;

(d) **Owner Actions.** Any suit solely between Owners that does not include as a party the Association, Declarant, seeking redress on any Covered Claim that would constitute a cause of action under federal law or the laws of the State of Arizona regardless of the existence of the Project Documents;

(e) **Separate Written Contracts.** Any action arising out of any separate written contract between Owners that would constitute a cause of action under the laws of the State of Arizona regardless of the existence of the Project Documents; and

(f) **Not Bound Parties.** Any suit in which less than all parties are Bound ADR Parties (unless the parties that are not Bound ADR Parties voluntarily agree to be subject to the alternative dispute resolution procedures established in this Declaration and the Bylaws.

Any Bound ADR Party having an Exempt Claim may submit it to the alternative dispute resolution procedures established in this Declaration and the Bylaws, but there is no obligation to do so and no obligation of any other Bound ADR Party to agree to have the Exempt Claim submitted to the alternative dispute resolution procedures. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures below requires the approval of the Association.

Section 6.03. Enforcement of Resolution. This agreement of the Bound ADR Parties to negotiate, mediate, and arbitrate all Covered Claims is specifically enforceable under the applicable arbitration laws of the State of Arizona. After resolution of any Covered Claim through negotiation, mediation, or arbitration in accordance with the provisions outlined above, if any Bound ADR Party fails to abide by the terms of any agreement or Arbitration Award, any other Bound ADR Party may file suit or initiate administrative proceedings to enforce the agreement or Arbitration Award without the need to again comply with the procedures set forth above. In this case, the Bound ADR Party taking action to enforce the agreement or Arbitration Award is entitled to recover from the non-complying Bound ADR Party (or if more than one non-complying Bound ADR Party, from all non-complying Bound ADR Parties pro rata) all costs incurred in enforcing the agreement or Arbitration Award, including, with limitation, attorney fees, and court costs.

Section 6.04. Amendments to Article VII. The alternative dispute resolution procedures of Article VII may be modified, amended, or terminated in accordance with the procedures established in the Project Documents.

I certify that the foregoing Bylaws were duly adopted by the Board of Directors of the Association as of _____, 2019.

Facilitator

Attest:

Secretary