

DECLARATION
OF
PHOENIX
ALL SUITES HOTEL
A CONDOMINIUM

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DECLARATION OF CONDOMINIUM OF
PHOENIX ALL SUITES HOTEL, A CONDOMINIUM

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DECLARATION OF CONDOMINIUM

OF

PHOENIX ALL SUITES HOTEL, A CONDOMINIUM

THIS DECLARATION, made this 24th day of September, 2003, by TILLIS M. BRETT, WILLIAM T. ROBINSON, JR., and THOMAS E. BRETT, herein collectively called the "DEVELOPER," for themselves, their heirs, grantees and assigns.

RECITALS

1. The Developer is the fee simple Owner of that certain parcel of Real Property situated in the County of Baldwin, State of Alabama, hereinafter more particularly described, and has improved said Real Property in the manner set out herein.
2. The Developer proposes to establish a Condominium pursuant to the provisions of the Alabama Uniform Condominium Act of 1991. The Condominium shall be known as Phoenix All Suites Hotel, a condominium.
3. The Developer proposes to develop the Condominium in a single phase.
4. The project consists of one (1) building containing a total of eighty-four (84) Hotel Commercial Units, along with one (1) Hotel Management Unit, together with access, parking and appurtenant facilities herein described.
5. The Hotel Commercial Units are irrevocably committed to the control of a single hotel management company. The management company shall operate the Condominium as a Hotel; its management activities shall be conducted from the 85th Condominium Unit, known as the Hotel Management Unit.

NOW, THEREFORE, the Developer, hereby makes the following Declaration.

DEFINITIONS

The terms used in this Declaration and in the By-Laws shall have the meanings stated in the Alabama Uniform Condominium Act of 1991, and as follows, unless the context otherwise requires:

1.01. "ACT" means the Alabama Uniform Condominium Act of 1991, *Code of Alabama* (1975), Section 35-8A-101, et seq.

1.02. "ARTICLES" means the Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

1.03. "ASSESSMENT" means proportionate share of the funds required for the payment of the Common Elements which from time to time may be levied against each Unit Owner.

1.04. "ASSOCIATION" means Phoenix All Suites Hotel Condominium Owners Association, Inc., an Alabama not for profit corporation, and its successors, and is the corporation organized under the ACT.

1.05. "BOARD" means the Board of Directors of the Association.

1.06. "BUILDING" means all structures or structural improvements located on the Real Property and forming part of the Condominium.

1.07. "BY-LAWS" means the duly adopted By-Laws of the Association, identified as Exhibit "C" attached hereto and made a part hereof as if set out fully herein.

1.08. "COMMON ELEMENTS" means all portions of the condominium other than the Units.

1.09. "COMMON EXPENSES" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.10. "COMMON SURPLUS" means the excess of all receipts of the Association arising out of the Common Elements over the amount of the Common Expenses.

1.11. "CONDOMINIUM" means Phoenix All Suites Hotel, a condominium, and consists of the Condominium Property submitted to the Condominium form of ownership by this Declaration.

1.12. "CONDOMINIUM DOCUMENTS" means the Declaration, By-Laws, Articles, Hotel Operating and Rental Agreement, and all rules and regulations adopted by the Association and all exhibits attached thereto as the same may be amended from time to time.

1.13. "CONDOMINIUM PROPERTY" or "PROPERTY" means all property, both real, personal or mixed, which is submitted to the Condominium form of ownership as provided for herein and includes the Real Property and all improvements now existing or hereafter placed thereon and all easements, rights, interests or appurtenances thereto, and all personal property now or hereafter used in connection therewith.

1.14. "DECLARATION" means this Declaration of Condominium any and amendments thereto which may be made from time to time.

1.15. "DEVELOPER" means Tillis M. Brett, William T. Robinson, Jr., and Thomas E. Brett, their heirs and assigns.

1.16. "DEVELOPMENT" shall have the same means as "Condominium Property" or "Property."

1.17. "DEVELOPMENT RIGHTS" shall have the same meaning as is defined in the ACT and as set out in the Declaration.

1.18. "DWELLING UNIT" means a room or group of rooms including a kitchen and sanitary facility designed and used exclusively or occupied as separate living quarters by not more than one (1) family. The term "dwelling unit" does not include a sleeping unit in a bona fide hotel even when such sleeping units are equipped with kitchen facilities.

1.19. "ELIGIBLE MORTGAGEE" means any Mortgagee who has submitted to the Association a written request for notice of any proposed action concerning the Condominium.

1.20. "HOTEL" means a building or structure under a common or multiple ownership interest and single management which is designed, used or held out to the public to be a place where sleeping accommodations are supplied for pay to transient guests or tenants. Such hotel with or without individual kitchen or cooking facilities, may have one or more dining rooms, restaurants, cafes or cocktail lounges where food and drink are served. It must maintain an inner lobby and furnish services such as room cleaning, linen supply, telephone, and furnishings. As used herein, a hotel provides temporary lodging as opposed to being a permanent abode.

1.21. "HOTEL OPERATOR" means the Hotel Operator under the Hotel Operating and Rental Agreement.

1.22. "HOTEL OPERATING AND RENTAL AGREEMENT" shall mean the agreement entered into by and between each Unit Owner and the Hotel Operator.

1.23. "LIMITED COMMON ELEMENT" shall have the same meaning as is defined in the ACT and as set out in the Declaration.

1.24. "MEMBER" means a member of the Association, membership in which is confined to Unit Owners.

1.25. "MORTGAGEE" means any lender holding a mortgage or vendor's lien on any part or all of the Condominium Property.

1.26. "OCCUPANT" means a person or persons in possession of a Unit, regardless of whether that person is the Unit Owner.

1.27. "PERSONS" means a natural person, a corporation, a limited liability company, a partnership, a limited partnership, the Association, a Trustee, or other legal entity.

1.28. "PLANS" mean the site plan, floor plans, and elevations of the Condominium prepared by an independent registered engineer or registered architect, which are separately recorded and expressly made a part hereof as though fully set out herein. The final Plans shall be preceded by a certificate of completion executed by an independent registered engineer or registered architect in accordance with the ACT.

1.29. "REAL PROPERTY" means the land described herein as well as the improvements thereon which by law are considered as being a part of the land, all of which is submitted to the Condominium form of ownership as provided for herein.

1.30. "SPECIAL DECLARANT RIGHTS" shall have the same meaning as is defined in the ACT and as set out in the Declaration.

1.31. "UNIT" or "PRIVATE ELEMENT" shall have the same meaning as "Unit" is defined in the ACT. The Units are designated on the Plans. There are five (5) types of Units: Four (4) types of Hotel Commercial Units which are dedicated entirely to the control of a single hotel management company, and the Hotel Management Unit, from which the Hotel is operated and managed.

1.32. "UNIT OWNER" means the Owner of a Unit.

1.33. "UTILITY SERVICES" shall include but not be limited to electrical power, gas, garbage and sewage disposal.

When the context permits, use of the plural shall include the singular, use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

NAME

The name by which this Condominium is to be known is Phoenix All Suites Hotel, a condominium. The Condominium is located on East Beach Boulevard, in the City of Gulf Shores, County of Baldwin, State of Alabama.

THE REAL PROPERTY

The Real Property owned by the Developer which is herewith submitted to the Condominium form of ownership is the parcel of land described herein lying and being in Baldwin County, Alabama, more particularly described as follows, to wit:

Parcel A:

Lot 1 of a re-subdivision of Lot A of JLB Subdivision as shown on map or plat of record in Slide #1797A, in the Office of the Probate Judge of Baldwin County, Alabama.

AND

Parcel B:

Lot B, JLB Subdivision, a re-subdivision of Lots 1-6, Block 9, of a resurvey of Blocks 8-12 and 28-30, Unit 1 of Gulf Shores, as shown in Map Book 12, Page 138, Baldwin County Probate Office, Baldwin County, Alabama.

The Real Property is subject to the following:

- a) Zoning, planning, and other restrictions or regulations upon the use of the Real Property as may be imposed by the City of Gulf Shores, Alabama, or any other governmental authorities having jurisdiction over the Real Property.

- b) Development Rights and Special Declarant Rights granted Developer by the Condominium documents and by the ACT.
- c) All ad valorem taxes and assessments.
- d) Rights of eminent domain and other governmental rights of police power.
- e) Easements or claims of easements not shown by the public records.
- f) Encroachments, overlaps, boundary line disputes, and any other matter which would be disclosed by an accurate survey and inspection of the Real Property.
- g) Terms and conditions of all permits and licenses of Federal, state, and local government, including applicable agencies and departments and private and quasi governmental agencies having jurisdiction over the Real Property.
- h) Easements reserved by this instrument to the Declarant.
- i) Covenants and restrictions contained herein.
- j) Applicable building setback lines.
- k) Outstanding oil, gas and other mineral interests and rights in connection therewith.
- l) Covenants prohibiting use of a portion of the Real Property for certain quick service restaurants for certain named restaurants for a period of twenty (20) years.

PURPOSE

The Developer hereby submits the Real Property described above together with all improvements, buildings, structures, and all other permanent fixtures thereon, and all rights and privileges belonging or in any way pertaining thereto, to the Condominium form of ownership and use in the manner provided for by the "Alabama Uniform Condominium Act of 1991," *Code of Alabama* (1975), Section 35-8A-101, et seq.

DEVELOPMENT PLAN

5.01. Plans. The improvements are substantially completed in accordance with the Plans, and as set forth in paragraph 5.06. hereinbelow.

5.02. Amendment. This Declaration may be amended by the Developer without the consent of any Unit Owner, Mortgagee, or other Person in order to exercise any Development Rights or Special Declarant Rights so long as said amendment complies with the requirements

of the ACT. Further, this Declaration may be amended by the filing of such additional plans as may be required to accurately describe the improvements or the condominium and in order to show completion of improvements. Such completion may be shown by the filing of a verified statement of a registered architect or licensed professional engineer certifying that the completed improvements have been constructed as herein represented and upon the plans herewith filed, or, if not so constructed, then designating the changes made and certifying that the plans being filed simultaneously with such certificate fully and accurately depict the layout, location, numbers, size and dimensions of the units. Such plans or certificate, or both, when signed and acknowledged by such a registered architect or licensed professional engineer, and by the Developer, shall constitute an amendment to this Declaration without approval of the Association, whether or not elsewhere required for an amendment.

5.03. Agreement. Each Person or entity who shall acquire any Unit in the Condominium or interest in or lien upon any such Unit shall be deemed, by accepting a conveyance of or otherwise acquiring such Unit interest or lien, to have agreed and consented, within the meaning of this Declaration and of the ACT to be bound by the terms and provisions hereof and to have further agreed and consented that any amendment to this Declaration executed by the Developer alone pursuant hereto shall be binding and effective as written notwithstanding the fact that the undivided interest of the Unit Owners in the Common Elements will be changed thereby.

5.04. Easements -- Developer's Retained and the Association's. Easements are reserved to the Developer throughout the Common Elements as may be reasonably necessary for the purpose of discharging the Developer's obligations or exercising any Development Rights or Special Declarant Rights. Further, the Developer, its successors and assigns, reserves a perpetual nonexclusive easement for access, ingress and egress in, over and through all roads, access routes, parking areas, and other Common Areas for guests, licensees, lessees, customers and employees to and from any adjacent or contiguous property to which the Developer may assign such an easement.

Each of the following easements are reserved to the Association for the benefit of the Unit Owners, their guests and lessees and is a covenant running with the Real Property:

A. Utilities and Drainage. Easements are reserved throughout the Condominium Property as may be required for Utility Services and drainage in order to adequately serve the Condominium; provided, however, such easements to a Unit shall be only in accordance with the Plans or as the improvements are constructed, unless approved in writing by the Unit Owner. Each Unit shall have an easement as may be required to drain the Condominium Property adequately. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements located in any of the other Units and serving his or her Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use all pipes, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Association shall have a right of access to each Unit to inspect the same, to remove violations therefrom, and to maintain,

repair or replace the Common Elements contained therein or elsewhere on the Condominium Property; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owners permitted use of the Unit, and except in the event of emergency, entries shall not be made without prior notice to the Unit Owner.

B. Encroachments. If any portion of the Common Elements encroaches upon any Unit, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any Building, a valid easement for the encroachment and for the maintenance of the same shall exist so long as such Building stands. In the event any Building, any Unit, any adjoining Unit, or any adjoining Common Element shall be partially or totally destroyed as a result of fire, or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as such Building or Buildings shall stand.

C. Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and of necessity in favor of all other Units, and the Common Elements.

D. Access. Each Unit shall have an easement for pedestrian traffic over, through, and across sidewalks, paths, walks, lobbies, elevators, stairways, walkways and lanes, and light passage ways, as the same may from time to time exist in the Common Elements; and for ingress and egress over, through and across such portions of the Common Elements as may from time to time be paved and intended for such purposes, but the same shall not give or create in any Person the right to park on any portion of the Condominium Property not designated as a parking area nor shall it give or create in any Person the right to use or occupy a Limited Common Element designated for the exclusive use of others. This easement shall be non-exclusive and shall include the right of ingress and egress to a public street or highway upon and over Common Elements providing such access and as shown on the Plans.

5.05. Units. (Private Elements). Each Unit is assigned a number or letter or a combination thereof, which is indicated on the Plans so that no Unit bears the same designation as any other Unit; the Hotel Management Unit is assigned the letter and number combination of "C-1." The legal description of each Unit shall consist of the identifying number or letter or a combination thereof as shown on the Plans, the name of the Condominium, the name of the County in which the Unit is situated, the name of the office in which this Declaration is recorded, and the Instrument Number under which this Declaration is recorded, the description and location of the particular Units and the appurtenances are determined with the aid of the Plans. The Unit boundaries are determined as follows:

A. Horizontal Boundaries. (Planes). The upper and lower boundaries extended to their planer intersections with the vertical boundaries of each Unit shall be:

(1) Upper Boundary. The horizontal plane of the unfinished lower interior surface of the uppermost ceiling.

(2) Lower Boundary. The horizontal plane of the unfinished upper interior surface of the floor.

B. Vertical Boundaries. (Planes). The vertical boundaries of each Unit shall be the vertical planes of the interior surfaces of exterior windows and glass doors bounding a Unit and the unfinished interior surfaces of the walls and entry doors bounding the Unit, excluding paint, wall paper, and light coverings, extended to their planer intersections with each other and with the upper and lower boundaries.

5.06. General Description of Improvements. The Condominium Property consists essentially of one (1) building, together with automobile parking areas, lawn and landscaping, and other facilities as more particularly set forth in the Plans. A preliminary Plat and Plans for the Condominium is annexed as Exhibit "B." Upon completion of construction the Developer shall record an amendment to this Declaration to include, if needed, a revised Plat and Plans reflecting any variation from the present recorded instruments, together with all statutorily required certificates. The Building is constructed with poured-in place post-tensioned concrete, on pre-cast concrete pilings, with a stucco or similar exterior finish and built-up roof. The Building contains nine (9) levels (stories), excluding two ground levels, which are for parking. The first finished level or story (meaning the first level above the parking levels) contains six (6) Hotel Commercial Units and the Hotel Management Unit. Each of levels two (2) through eight (8) contain ten (10) Hotel Commercial Units, and the ninth (9th) level or floor contains eight (8) Hotel Commercial Units. There are five (5) types of Units which are more specifically described in the plans, for a total of eighty-four (84) Hotel Commercial Units and one (1) Hotel Management Unit. The only amenity is one (1) outdoor swimming pool.

There are five (5) basic floor plans.

Basic Hotel Commercial Unit Type "A" is a one (1) bedroom, one and one-half (1½) bath Unit, containing kitchen, dining and living areas, totaling 634.37 square feet, with a balcony serving the Unit as a Limited Common Element. There are two (2) Type "A" Units on Levels 1 through 9 for a total of eighteen (18) Type "A" Units.

Basic Hotel Commercial Unit Type "B" is a one (1) bedroom, one and one-half (1½) bath Unit, containing kitchen, dining and living areas, totaling 634.37 square feet, with a balcony serving the Unit as a Limited Common Element. There are three (3) Type "B" Units on Level 1, seven (7) Type "B" Units on levels 2 through 4, eight (8) Type "B" Units on Levels 5 through 8, and (6) Type "B" Units on level 9 for a total of sixty-two (62) Type "B"

Units.

Basic Hotel Commercial Unit Type "C" is a one (1) bedroom, one (1) bath Unit, containing kitchen, dining and living areas, totaling 634.37 square feet, with a balcony serving the Unit as a Limited Common Element. There are three (3) Type "C" Units, one each on Levels 2 through 4, for a total of three (3) Type "C" Units which are designated and equipped as handicap accessible Units.

Basic Hotel Commercial Unit Type "D" is a one (1) bedroom, one (1) bath Unit, containing kitchen, dining and living areas, totaling 634.37 square feet, with a balcony serving the Unit as a Limited Common Element. There is one (1) Type "D" Unit, on Level 1, which is designated and equipped as a handicap accessible Unit.

The Hotel Management Unit is the area on level 1 as shown on the plans which includes the lobby, front desk or registration area, administrative offices, laundry room, and the linen or storage areas on the Western end of each level, all for the exclusive use of the Hotel Operator.

5.07. Unit Ownership. Each Unit Owner shall own his Unit in fee simple but the right to use and enjoy such Unit is limited by the provisions of Article XII of the Declaration and by the provisions of the Hotel Operating and Rental Agreement. Each Unit Owner is subject to all the rights and duties assigned to Unit Owners under the terms of the Condominium Documents. The Developer shall enjoy the same duties (as any other Unit Owner) with respect to Hotel Commercial Units owned by the Developer. The private elements of each Unit shall consist of the following:

- A. The air space of the area of the Building lying within the Unit boundaries.
- B. The surfacing materials on the interior of the exterior walls and on interior walls separating one Unit from another Unit. This is not intended to include the sheetrock on any common-party walls falling between Units. Such sheetrock is a Common Element.
- C. The structural components and surfacing materials of all interior walls located within the boundaries of the Unit.
- D. The structural components and surfacing materials of the floors and ceilings of the Unit.
- E. All bathtubs, toilets and sinks, the range, refrigerator, dishwasher, hot water heater, air conditioning and heating units, lighting fixtures and all hardware and interior and exterior wall fixtures except those exterior lighting fixtures assigned to the common use of the Condominium, and the power meter and its appurtenances.
- F. All interior trim and finishing materials.

5.08. Surfaces. A Unit Owner shall not be deemed to own the structural components of the perimeter and/or load-bearing walls, nor the windows and doors bounding the Units. A Unit Owner, however, shall be deemed to own and shall have the exclusive right and duty to repair and maintain, paint, repaint, tile, wax, paper, or otherwise finish and decorate the surfacing materials on the interior of exterior walls and on interior walls separating a Unit from other Units, and the surfacing materials of the floors of his or her Unit; all window screens; and all appurtenant installations, including all pipes, ducts, wires, cables, and conduits used in connection therewith, for services such as power, light, telephone, sewer, water, heat and air conditioning, whether located in the boundaries of the Unit or in Common Areas, which are for the exclusive use of the Unit; and all ceilings and partition walls.

5.09. Developer's Limited Warranty By recording this Declaration, the Developer herewith provides a limited warranty covering latent defects of the common areas or common elements for one (1) year from the date of recordation. A latent defect is hereby defined as a defect not apparent at the time of occupancy or closing, but which becomes apparent within one (1) year, and such defect has been directly caused by the failure of construction of the building in accordance with the standards of construction prevailing in the geographical area of the Unit. Developer shall not be liable under this limited warranty unless written notice of the latent defect shall be given by the Association to Developer before the expiration of said one (1) year warranty period. Steps taken by Developer to correct any such defect shall not act to extend the warranty period as to other matters. Developer shall not be responsible or provide coverage for any of the following:

- (a) defects in appliances and pieces of equipment which are covered by manufacturer's warranties;
- (b) incidental, consequential or secondary damages caused by a breach of this warranty;
- (c) defects which are the result of characteristics common to the materials used, such as, but not limited to: warping and deflection of wood; mildew and fading; chalking and checking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks and masonry; drying, shrinking and cracking of caulking and weatherstripping;
- (d) conditions resulting from condensation on, or expansion or contraction of materials;
- (e) damages due to ordinary wear and tear, abusive use or lack of proper maintenance; and
- (f) chips, scratches or mars in tile, woodwork, walls, porcelain, brick, plumbing fixtures, formica and glass.

THE LIMITED WARRANTY IS GIVEN IN LIEU OF ANY AND ALL OTHER WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, HABITABILITY OR WORKMANSHIP, EACH OF WHICH ARE SEPARATELY HEREBY DISCLAIMED BY DEVELOPER.

5.10. Changes. The Developer reserves the right to change the interior design and arrangement of any or all Units owned by it. The Developer further reserves the right to alter the boundaries between Units, which said change shall be reflected by an amendment of this Declaration, which may be executed by the Developer alone, notwithstanding the procedures for amendment described herein. However, no such change of boundaries shall increase the number of Units, nor alter the boundaries of the Common Elements without amendment of this Declaration in the manner described herein. If the boundaries of more than one (1) Unit are altered, the Developer shall appropriately reapportion the shares of the Common Elements which are allocated to the altered Units. Provided, however, the Special Declarant Right granted by this section must be exercised on or before ten (10) years from the date of the recording of this Declaration in the Office of the Judge of Probate of Baldwin County, Alabama. No assurance is made concerning whether or not any Unit will be or will not be changed by the Developer nor is any assurance made concerning the nature, character, or quality of said change. The exercise by the Developer of the Special Development Right to change a Unit does not obligate the Developer to exercise said right in any one or all of any other Unit in the Condominium.

5.11. Common Elements. Any right, title or interest in a Unit shall automatically carry with it as an appurtenance and without the necessity of specific reference thereto its respective undivided share of the Common Elements and a right to use the Common Elements in conjunction with the other Unit Owners. The Common Elements of the Condominium are all portions of the Condominium other than the Units and will include the Common Areas and facilities located substantially as shown on the Plans. Such Common Areas and facilities will include the following:

- A. All of the land described in the legal description.
- B. All improvements and parts of the Real Property which are not a Unit or Private Element.
- C. All parking areas (even though assigned to the exclusive use of a Unit which are Limited Common Elements), driveways and other means of ingress and egress.

D. The mechanical systems and installations providing service to a Building, or to any Unit, such as electrical power, gas, light, hot and cold water, heating and air conditioning, fireplace, sanitary and storm sewer facilities, and including all lines, pipes, ducts, flues, chutes, conduits, cables, wires, and all other apparatus and installations in connection therewith, whether located in the Common Elements or in the Units, except when situated entirely within a Unit for service only of that Unit.

E. All tangible personal property required for the maintenance and operation of the Condominium and for the common use and enjoyment of the Unit Owners.

F. Recreation areas and facilities.

G. All foundations, slabs, columns, beams and supports of the Building and such component parts of exterior walls and walls separating Units, roofs, floors and ceilings as are not described herein as Private Elements.

H. Lawn areas, landscaping, walkways, sidewalks, curbs and steps.

I. Exterior steps, elevator, ramps, handrails, stairs and stairwells.

J. All tanks, pumps, pump houses, wells, motors, fans, compressors and control equipment, fire lighting equipment, elevator equipment, and garbage equipment which are not reserved for the use of certain Owners.

K. All area outdoor and exterior lights not metered to individual Units and supports and all entrance and related type signs.

L. The patios, balconies, terraces, porches, storage areas, and doorsteps or stoops affixed to each Unit, even though designated as Limited Common Element.

M. All other parts of the Condominium Property existing for the common use or necessity of the existence, maintenance and safety of the Condominium.

N. All other items listed as such in the ACT.

O. One (1) outdoor 20 foot x 27 foot swimming pool.

P. The mechanical and storage areas located on the first level.

5.12. Limited Common Elements. The Limited Common Elements located on the Property and the Unit to which they are assigned are as follows:

The patio, balcony, terrace, or porch abutting each Hotel Commercial Unit, including the storage closet or area, if any, located on said balcony, are Limited Common Elements appurtenant to those Units to which they attach and whose use is restricted to Units they are appurtenant. Doorsteps or stoops, if any, providing access to a patio, balcony, terrace, or porch are assigned as a Limited Common Element to the Unit to which the patio, balcony, terrace, or porch serves.

COMMON ELEMENTS

6.01. Ownership. A schedule setting forth the percentage of undivided interest of each Unit in the Common Elements is attached hereto, marked Exhibit "D" and by reference made a part hereof. The percentage of undivided interest in of each Unit in the Common Elements is determined by dividing the total number of square feet of interior area of each Unit by the total number of square feet of interior area in all Units. For purposes of percentage of ownership in the Common Elements, percentage of Common Expenses, and percentage of Common Surplus, and voting on all matters requiring action by the Owners, the percentages as set out on Exhibit "D" shall govern. The ownership interest in the Common Elements shall be an undivided interest, and except as provided in the ACT and this Declaration shall remain undivided. No Unit Owner shall bring any action for partition or division of the Common Elements. The ownership interest in the Common Elements shall not be conveyed, transferred, encumbered or otherwise affected separate from the ownership of the Unit, and any agreement to the contrary shall be void.

6.02. Use. Subject to the provisions of Article XII, each Unit Owner shall have the right to use the Common Elements (except any portions thereof designated as a Limited Common Element and restricted to the exclusive use of and as an appurtenance to a Unit and subject to any portion subject to leases made by or assigned to the Board and the exclusive and semi-exclusive parking spaces and areas) in conjunction with the Owners of other Units as may be required for the purposes of access, ingress to, egress from, use, occupancy, and enjoyment of the Condominium Property. The right to use the Common Elements shall be subject to and governed by the provisions of the ACT, Condominium Documents, and the Rules and Regulations of the Association. In addition, the Association shall have the authority to lease, grant concessions, or grant easements with respect to parts of the Common Elements subject to the provisions of the Declaration and By-Laws.

6.03. Share of Common Expenses and Limited Common Expenses. Each Unit Owner shall be assessed and is individually liable for a proportionate share of the Common Expenses and the proportionate share of the Common Expenses shall be the same ratio as the Unit Owner's percentage ownership in the Common Elements as the case may be. Payment of Common Expenses and Limited Common Expenses shall be in such amounts and at such times as determined in the By-Laws. Assessments shall be collected by the Association on a monthly basis. No Unit Owner shall be exempt from payment of his or her proportionate share of the Common Expenses or Limited Common Expenses by waiver or nonuse or nonenjoyment of the Common Elements or Limited Common Elements, or by abandonment of

his or her Unit. Common Expenses and Limited Common Expenses shall include but shall not necessarily be limited to expenditures made or liabilities incurred by the Association, together with payments or obligations to reserve accounts.

6.04. Late Payment of Assessments. Assessments for Common Expenses and Limited Common Expenses, and installments thereon, paid on or before fifteen (15) days after the date when due shall bear no interest, but all sums not paid on or before fifteen (15) days after the date when due shall bear such late charges, penalties, interest and other costs and expenses, at a rate set by the Board, but not to exceed to maximum legal rate, together with all expenses, including Attorney's fees incurred by the Association in any undertaking to collect such unpaid Assessments and expenses. All payment upon account shall be first applied to such late charges, penalties, interests and other costs and expenses, including Attorney's fees, and then to the Assessment payment due. The Association may, in the manner provided for in the By-Laws, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, By-Laws, and rules and regulations of the Association.

6.05. Liens for Assessments. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements and upon the goods, furniture and effects belonging to the Unit Owner and located in such Unit, which lien shall secure and does secure the money's due for all Assessments now or hereafter levied or subject to being levied against the Unit Owner which lien shall also secure such late charges, penalties and interest, if any, which may be due on the amount of any delinquent Assessment owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fees, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant undivided interest in the Common Elements.

6.06. Priority of Lien. The Association shall have a lien for nonpayment of Common Expenses and Limited Common Expenses as is provided by the ACT. In any suit for the foreclosure of a lien for Assessments, the Association shall be entitled to rental from the Unit Owner from the date on which the payment of any Assessment or installment thereof becomes delinquent and shall be entitled to the appointment of a receiver for said Unit, without notice to the Unit Owner. The rental required to be paid shall be equal to the rental charged on comparable type of dwelling Units in the area in which the Condominium is located. The lien granted to the Association shall further secure such advances for taxes and other payments which may be required to be advanced or paid by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at a rate set by the Board of the Association but in no case shall said interest exceed the maximum legal rate on any such advances made for such purposes. All Persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien granted to the Association. A lien for Common Expenses or Limited Common Expenses shall not be affected by any sale or transfer of a Unit, except as herein provided. A sale or transfer pursuant to a foreclosure of a first mortgage or first vendor's lien shall extinguish a subordinate lien for Assessments which became payable prior to such sale or transfer;

Provided, however, a sale or transfer pursuant to a foreclosure of a first mortgage or first vendor's lien shall not extinguish the lien of the Association to the extent of the Common Expense Assessments and Limited Common Expense Assessments based on the periodic budget adopted by the Association pursuant to the ACT which would have become due in the absence of acceleration during the six months immediately preceding the institution of an action to enforce the lien. However, any such delinquent Assessments which were extinguished pursuant to the foregoing provision may be reallocated and assessed to all of the Units as a Common Expense. Any such sale or transfer pursuant to foreclosure does not relieve the purchaser or transferee of a Unit from liability for, nor the Unit from the lien of, any Assessments made thereafter.

6.07. Disposition of Surplus. Each Unit shall carry with it a proportionate share of Common Surplus or Limited Common Surplus, as the case may be, and the proportionate share of Common Surplus or Limited Common Surplus shall be the same ratio as that Unit Owner's percentage ownership of the Common Elements or Limited Common Elements; or in the alternative, such surplus or any portion thereof may be added to a reserve fund for maintenance, repair, and replacement of the Common Elements or the Limited Common Elements, as the case may be, at the sole discretion of the Association.

THE ASSOCIATION

7.01. Powers and Duties. The operation and administration of the Condominium shall be by the Association of the Unit Owners, pursuant to the provisions of the ACT and shall have the responsibility to ensure that the Condominium Property is operated as a hotel in accord with the Declaration and the Zoning Ordinance of the City of Gulf Shores. The Association shall be a not for profit Alabama corporation incorporated by Articles of Incorporation recorded in the office of the Judge of Probate of Baldwin County, Alabama. The Association shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or nonexercise of its powers. The Association shall have exclusive authority and power to maintain a class action and to settle a cause of action on behalf of Unit Owners of the Condominium with reference to the Common Elements or the Limited Common Elements, the roof and structural components of a Building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a Building as distinguished from mechanical elements serving only a Unit; and with reference to any and all other matters in which all the Unit Owners have a common interest. The Association shall have all the powers and duties set forth in the ACT, as well as all the powers and duties granted to or imposed on it under the By-Laws and other Condominium Documents as they may be amended from time to time, and shall have such additional powers and duties as are set forth in the Hotel Operating and Rental Agreement. The Association is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other Person or Persons. The Association shall have a reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Development and further, shall have the right to grant permits, licenses, and easements over the Common Areas

for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Development. The Board shall have the authority and duty to levy and enforce the collection of general and specific Assessments for Common Expenses and Limited Common Expenses and is further authorized to provide adequate remedies for failure to pay such Assessments.

7.02. Name. The name of the Association shall be Phoenix All Suites Hotel Condominium Owners Association, Inc.

7.03. Members. Each Unit Owner shall be a Member of the Association so long as he or she is a Unit Owner. A Unit Owner's membership shall immediately terminate when he or she ceases to be a Unit Owner. The membership of a Unit Owner cannot be assigned or transferred in any manner except as an appurtenance to his Unit.

7.04. Voting Rights. Each Unit shall be entitled to one (1) vote, which vote is not divisible, the numerical value of which shall be the percentage of undivided interest in the Common Elements assigned to the Unit of which the Member is the Owner. The vote for a Unit shall be cast by the Owner thereof in the manner provided for herein and in the By-Laws. However, should the Association be a Unit Owner, it shall not have the voting right for that Unit.

7.05. Designation of Voting Representative. In the event a Unit is owned by one (1) Person, his or her right to vote shall be established by the record title to his or her Unit. If a Unit is owned by more than one (1) Person, the Person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record Owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, partnership or limited partnership, the officer, employee or individual entitled to cast the vote for the Unit shall be designated by a certificate of appointment signed by the president or vice president and attested by the secretary or assistant secretary of the corporation (in the case of a corporation) or by the general partner or partners if more than one (in the case of a partnership or limited partnership), which certificate shall be filed with the Secretary of the Association. If such a certificate is not on file with the Secretary of the Association for a Unit owned by more than (1) Person or by a corporation, partnership or limited partnership, the membership or vote of the Unit concerned may be cast in accordance with the ACT. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned is effected. A certificate designating the Person entitled to cast the vote of a Unit may be revoked by any Owner thereof.

7.06. Restraint Upon Assignment of Shares in Assets. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his or her Unit.

7.07. Board of Directors. The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number not less than three (3) nor more than five (5)

as shall, from time to time, be determined and fixed by a vote of a majority of the voting rights present at any annual meeting of the Members.

7.08. Indemnification. Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, or any settlement thereof, including counsel fees, reasonably incurred by or imposed upon him/her in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of his or her being or having been a Director or officer of the Association, whether or not he or she is a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performed of his or her duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

7.09. Limitation of Liability. Notwithstanding the liability of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable for injury or damage caused by a latent condition of the Property to be maintained and repaired by the Association nor for injury or damage caused by the elements, or other Owners or Persons.

7.10. By-Laws. The Association and its Members shall be governed by the By-Laws.

7.11. Proviso. Subject to the provisions herein, until the earliest of (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than the Developer; (ii) two (2) years after the Developer, its successors or assigns have ceased to offer Units for sale in the ordinary course of business; or (iii) two (2) years after any Development Right to add new units was last exercised, the By-Laws and rules adopted by the Developer shall govern and the Developer shall have the exclusive right to appoint, remove, and designate the officers and members of the Board of Directors, and neither the Unit Owners nor the Association nor the use of the Condominium Property by Unit Occupants shall interfere with the completion of the contemplated improvements and the sale of the Units. The Developer may voluntarily surrender the right to appoint and remove officers and members of the Board; but, in that event, the Developer may require, for the duration of the period of Developer control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Developer, be approved by the Developer before they become effective. Provided, however, not later than ninety (90) days after conveyance of twenty-five percentage (25%) of the Units which may be created to Unit Owners other than the Developer, at least one (1) member and not less than twenty-five percent (25%) of the members of the Board must be elected by Unit Owners other than the Developer. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units which may be created to Unit Owners other than the Developer, not less than thirty-three and one-third percent (33 1/3%) of the members of the Board must be elected by Unit Owners other than the Developer. Except as provided for in the ACT, not later than the

termination of any period of Developer control, the Unit Owners shall elect a Board of at least three (3) members, at least a majority of whom must be Unit Owners other than the Developer.

The Developer may make such use of the unsold Units and of the Common Areas and facilities as may facilitate such completion and sale, including but not limited to showing of the Property and the display of signs. The Developer may maintain sales offices, management offices, leasing and operations offices, and models in any Unit of the Condominium or on Common Elements in the Condominium without restriction as to the number, size, or location of said sales offices, management offices, leasing and operations offices, and models. The Developer shall be permitted to relocate said sales offices, management offices, leasing and operations offices, and models from one Unit location to another or from one area of the Common Elements to another area of the Common Elements in the Condominium. The Developer may maintain signs on the Common Elements advertising the Condominium. The rights of the Developer as provided for in this paragraph shall cease and terminate ten (10) years from the date of the recording of this Declaration in the Office of the Judge of Probate of Baldwin County, Alabama.

7.12. Hotel Operating and Rental Agreement. If the existing Hotel Operating and Rental Agreement is ever terminated or expires and is not renewed, the Association shall make advance arrangements to ensure that a successor management company assumes property management and Hotel Operation. If such successor and the then owner of the Hotel Management Unit do not agree to terms upon which the successor may purchase the Hotel Management Unit, the then owner shall make the Hotel Management Unit available to the successor management company on a reasonable rental basis. The Association is charged with the responsibility to ensure that the Condominium is always operated as a hotel from the Hotel Management Unit. Each management and rental agreement between a Unit Owner and the Hotel Operator shall contain language reciting and adopting the use restrictions found in this Declaration which irrevocably commit the control of all the Hotel Commercial Units to the control of a single hotel management company. The mandatory contractual provisions are set out in Exhibit "E," the provisions of which are incorporated herein.

7.13. Availability of Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the ACT. The Association shall make reasonably available in the county where the Condominium is located for examination by Unit Owners, prospective purchasers, first mortgagees and insurers of first mortgagees of any Unit, or their authorized agents, current copies of the Declaration, By-Laws, Rules and Regulations and other books, records, financial statements and the most recent annual financial statement of the Association. Reasonably available shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

7.14. Reserves for Replacements. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Elements and Limited Common Elements. The fund shall be maintained out

of regular Assessments for Common Expenses and Limited Common Expenses.

MAINTENANCE

8.01. Maintenance. The Association is responsible for maintenance, repair and replacement of the Common Elements and Limited Common Elements. The Hotel Operator is responsible for the maintenance, repair and replacement of the Units and the contents thereof. However, the expense thereof shall be borne by each Unit Owner. No Unit Owner shall maintain, repair, replace, change or alter his Unit or the contents thereof. The Association, its delegated agents or employees and the Hotel Operator may at all times enter into any Unit for the purposes of this Article.

8.02. Appearance of the Units. The Hotel Operator shall maintain the uniform appearance of the Units and the contents and shall determine what that appearance shall be from time to time.

INSURANCE

9.01. Purchase of Insurance. Commencing not later than the time of the first conveyance of a Unit to a person other than the Developer, the Association shall maintain, or shall cause the Hotel Operator to maintain, insurance upon the Condominium Property to the extent reasonably available as provided for in the ACT and as follows. Prepayment of insurance advanced by the Developer shall be reimbursed on a pro rata basis by each Unit Owner upon the first purchase of a Unit.

9.02. Location of Policies. The Association shall retain the original of all insurance policies in a place of safe keeping such as a safe or a safety deposit box.

9.03. Copies to Mortgagees. One copy of each insurance policy and of all endorsements thereto shall be furnished by the Association to any first Mortgagee requesting a copy.

9.04. Authorization to do Business. All policies of insurance must be issued by companies specifically authorized by the laws of the State of Alabama to transact such business.

9.05. Coverage. The Association is required to maintain the following insurance coverage:

A. Property and Casualty. The Association must obtain, maintain, and pay the premiums upon, as a Common Expense, the property insurance required by the ACT for condominium structures with horizontal boundaries and, by way of addition, as follows. The type of policy shall be a "master" or "blanket" type policy of property insurance covering all the Common Elements (except land, foundation, excavation, and other items usually excluded from coverage) including fixtures, building service equipment and supplies, and other personal

property belonging to the Association. All references herein to a "master" or "blanket" type of policy of property insurance are intended to denote single entity Condominium insurance coverage. In addition, the insurance obtained under this section shall include coverage of the Units themselves. Fixtures or equipment located within a Unit (regardless of whether or not such Property is a part of the Common Elements) must be covered by such "master" or "blanket" policy, but the coverage need not include improvements and betterments installed by unit owners. If reasonably available, the insurance policy shall include an "All In" endorsement which shall include coverage of appliances (including stoves, cooking ranges, refrigerators, dishwashers, clothes-washers and dryers, to the extent such appliances comprised a part of the Unit on the date of this Declaration or were replacement items for such original appliances), air conditioners, and all fixtures contained within the Units. The policy shall be in an amount deemed appropriate by the Association but not less than the greater of eighty percent (80%) of the actual cash value of the insured Property at the time the insurance is purchased or such greater percentage of such actual cash value as may be necessary to prevent the applicability of any coinsurance provision at any renewal date, exclusive of land, excavation, foundation, and other items normally excluded from property policies. The policy shall include an "Agreed Amount Endorsement" or its equivalent and, if available, an "Inflation Guard Endorsement." If there shall be a construction code provision that requires changes to undamaged portions of the Condominium Property even when only part of the project is destroyed by an insured hazard, the policies shall include construction code endorsements. The property insurance policy shall provide, as a minimum coverage and protection against:

- (1) Loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement;
- (2) All other perils which are customarily covered with respect to condominiums similar in construction shall be obtained so as to meet the requirements of the ACT.

B. Liability Insurance. The Association must obtain, maintain, and pay the premiums upon, as a Common Expense, a comprehensive general liability insurance policy, including medical payments insurance, as required by the ACT and covering all the Common Elements, commercial space owned and leased by the Association, and public ways of the Condominium. Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location, and use. However, such coverage shall be, if reasonably available, for at least one million dollars (\$1,000,000) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, if reasonably available, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of law suits related to employment contracts of the Association. The policy shall also include, if reasonably available, coverage for protection against water damage liability and, if applicable, elevator collision and garage keepers liability. If required by any

first mortgage holder and, if reasonably available, the policy shall include protection against such other risks as are customarily covered with respect to Condominiums similar in construction, location and use, including but not limited to host liquor liability, employers liability insurance, contractual and all written contract insurance and comprehensive automobile liability insurance.

C. Flood Insurance. If any part of the Condominium Property shall be deemed to be in a special flood hazard area, as defined by the Federal Emergency Management Agency or other governmental agency, the Association shall, if reasonably available, obtain, maintain, and pay the premiums upon, as a Common Expense, a "master" or "blanket" type of flood insurance policy. The policy shall cover the Common Elements falling within the designated flood hazard area. The insurance shall be in an amount deemed appropriate by the Association, but not less than an amount equal to the lesser of:

(1) Eighty percent (80%) of the actual cash value of the insured property located within the flood hazard area; or

(2) The maximum coverage available for the Property under the National Flood Insurance Program. The policy shall be in a form which meets the criterion set forth in the most current guidelines issued on the subject by the Federal Government.

D. Personnel Coverages. Should the Association employ personnel, all coverages required by law, including workman's compensation, shall be obtained so as to meet the requirements of the law.

E. Fidelity Bonds. The Association, if reasonably available, shall obtain, maintain and pay the premiums upon, as a Common Expense, a fidelity bond to protect against loss of money by dishonest acts on the parts of all officers, directors and employees of the Association and all other persons handling, or responsible for, funds of the Association or funds administered by the Association. Where a management agent has the responsibility for handling or administering funds of the Association, the management agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The fidelity bond shall name the Association as the obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than one hundred and fifty percent (150%) of the estimated annual Common Expenses. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums on all bonds required herein to be maintained by the management agent shall be paid by the management

agent. The bond shall provide that any first Mortgagee shall receive notice of cancellation or modification of the bond.

F. Other Insurance. The Association shall obtain other insurance required by the ACT and shall have authority to obtain such other insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable. The premiums for such insurance shall be a Common Expense.

If the insurance described above which is required to be maintained is not reasonably available, the Association promptly shall give notice of that fact to be hand delivered or sent prepaid by United States Mail to all Unit Owners.

9.06. Individual Insurance. Nothing contained herein shall be construed to prevent a Unit Owner from obtaining insurance for his or her own benefit.

9.07. Provisions. Insurance coverage, if reasonably available, must comply with the requirements of the ACT and this Declaration and shall in substance and effect:

A. Provide that the policy shall be primary, even if the Unit Owner has other insurance that covers that same loss, and further provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, pro-ratio or contribution by reason of any other insurance obtained by or for any Unit Owner.

B. Contain no provision relieving the insurer from liability for a loss occurring because the hazard to such Building is increased, whether or not within the knowledge or control of the Association, or because of any breach of warranty or condition or any other act or neglect by the Association or any Unit Owner or any other Persons under either or them.

C. Provide that such policy may not be canceled or substantially modified and the insurer may not refuse to renew said policy (whether or not requested by the Association) except by the insurer giving at least thirty (30) days prior written notice thereof to the Association, the Unit Owner, each holder of a first mortgage on an individual Unit, and every other Person in interest who shall have requested such notice of the insurer.

D. Contain a waiver by the insurer of any right of subrogation to any right of the Association, or either against the Owner or lessee of any Unit.

E. Contain a standard Mortgagee clause which shall:

(1) Provide that any reference to a Mortgagee in such policy shall mean and include all holders of mortgages of any Unit, whether or not named herein; and

(2) Provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Association or Unit Owners or any Persons under any of them; and

(3) Waive any provisions invalidating such Mortgage clause by reason of the failure of the Mortgagee to notify the insurer of any hazardous use or conveyance, any requirement that the Mortgagee pay any premium thereon, and any contribution clause.

9.08. Liabilities and Responsibilities of Unit Owner. A Unit Owner shall be liable for any claim, damage, or judgment entered as a result of the use or operation of his or her Unit caused by his or her conduct. Each Unit Owner shall be responsible for obtaining insurance for his or her own benefit, directly or by agreement with the Hotel Operator.

9.09. Insurance Premiums. Insurance premiums maintained by the Association shall be paid by the Association as a Common Expense. Should the Association fail to pay such insurance premiums when due, or should the Association fail to comply with other insurance requirements of a Mortgagee, the Mortgagee shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance. To the extent of any money so advanced, the Mortgagee shall be subrogated to the Assessment and the lien rights of the Association as against the individual Unit Owners for the payment of such item of Common Expense.

9.10. Insurance Trustee; Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their Mortgagees as their interest may appear, and shall provide that all proceeds covering Property losses shall be paid to the Association, as Insurance Trustee for each of the Unit Owners in the percentages as established by the Declaration, which said Association, for the purpose of these provisions, is herein referred to as the Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purpose elsewhere stated herein and for the benefit of the Unit Owners and their Mortgages. The Insurance Trustee shall the power to adjust all claims arising under insurance policies purchased by the Association; to bring suit thereon in its name and/or in the name of other insured; to deliver releases on payment of claims; to compromise and settle such claims; and otherwise to exercise all the rights, powers, and privileges of the Association and each Unit Owner and any other holder of an insured interest in the Condominium Property under such insurance policies, however, the actions of the Insurance Trustee shall be subject to the approval of any first Mortgagee if the claim shall involve more than one Unit, and only if one Unit is involved, such actions shall be subject to approval of any first Mortgagee holding a mortgage and encumbering such Unit.

9.11. Shares of Proceeds. The Association as Insurance Trustee shall receive such insurance proceeds as are paid to it and shall hold the same in trust for the purposes stated herein and for the benefit of the Unit Owners and their Mortgagees in the following shares:

A. Common Elements. An undivided share of the proceeds on account of damage to Common Elements shall be held for each Unit Owner, with such share's portion of the total proceeds being the same percentage as the share of the Common Elements appurtenant to his or her Unit.

B. Units and Limited Common Elements. Except as provided elsewhere in this Declaration:

(1) When the Condominium Property is to be restored, the proceeds shall be held for the Unit Owners of damaged Units and damaged Limited Common Elements, with the share of each in the total proceeds being in the proportion that the cost of repairing the damage suffered by such Unit Owner bears to the total cost of repair, which cost shall be determined by the Board.

(2) When the Condominium Property is not to be restored, the proceeds shall be held for the Unit Owners in the undivided shares that are the same as their respective shares in the Common Elements.

C. Mortgages. In the event a Mortgagee endorsement has been issued with respect to a Unit, the share of the Owner of that Unit shall be held in trust for the Mortgagee and the Unit Owner as their interest may appear; provided, however, that no Mortgagee shall have any right to determine or participate in the determination of whether or not any damaged Property shall be reconstructed or repaired except as may be specifically provided to the contrary elsewhere in this Declaration.

9.12. Distribution of Proceeds. Proceeds of insurance policies received by the Association as Insurance Trustee shall be distributed to or for the benefit of the beneficial Owners:

A. Reconstruction or Repair. First, if the damage for when the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof. Any proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, with remittances to Unit Owners and Mortgagees being payable jointly to them. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by and such Mortgagee.

B. Failure to Reconstruct or Repair. If it is determined that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial Owners with remittances to Unit Owners and their Mortgagee being payable jointly to them. This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by any such Mortgagee.

RECONSTRUCTION OR REPAIR AFTER CASUALTY

10.01. Determination to Reconstruct or Repair. Any portion of the Condominium for which insurance is required under this Declaration for which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- A. The Condominium is terminated in accordance with the ACT;
- B. Repair or replacement would be illegal under any state or local statute or ordinance covering health or safety; or
- C. Eighty percent (80%) of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element which will not be rebuilt; vote not to rebuild. The cost of repair or replacement of a Common Element in excess of insurance proceeds in reserves is a Common Expense as provided in this Declaration.

10.02. Plans. Any reconstruction or repair must be substantially in accordance with the ACT and in accordance with the Plans for the original improvements or as the Condominium Property was last constructed; or if not, then according to Plans approved by the Board of Directors of the Association and by one hundred percent (100%) of the Unit Owners.

10.03. Responsibility. If the damage is only to those parts of a Unit or Limited Common Elements for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association.

10.04. Estimate of Cost. Immediately after a casualty causing damage to the Condominium Property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

10.05. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair of the Unit and Limited Common Elements by the Association, Assessments shall be made against the Unit Owners who own the damaged Property or have the exclusive right to use the Limited Common Element attached to his or her Unit, and against all Unit Owners in the case of damage to Common Areas and facilities in sufficient amounts to provide funds to pay the estimated costs. If any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, Assessments shall be made against the Unit Owners who own the damaged Unit and have exclusive right to use the Limited Common Elements attached to his or her Unit, and against all Unit Owners in the case of damage to Common Areas and facilities in sufficient amounts to provide funds for the payment of such costs. Such Assessments against Unit Owners for reconstruction and/or repair of damage to

Units and Limited Common Elements shall be in proportion to the cost of reconstruction and repair of their respective Units or Limited Common Elements. Such Assessments for reconstruction and/or repair of damage to Common Areas and facilities shall be in proportion to the Owner's share in the Common Elements. Assessments for reconstruction and repair may be collected, and the collection enforced, in the same manner as provided for Assessments elsewhere herein.

10.06. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty for which the Association is responsible, which shall consist of proceeds of insurance held by the Association as Insurance Trustee and funds collected by the Association from Assessment against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the following manner and order:

A. Disbursement. The construction fund shall be disbursed in payment of such costs on the order and in the manner provided by the Board of the Association.

B. Unit Owner. If there is a balance of insurance proceeds after the payment of the cost of reconstruction and repair that are the responsibility of the Association, this balance shall be distributed to Unit Owners of damaged Units or damaged Limited Common Elements who are responsible for the reconstruction and repair of the damaged portions of their Units or Limited Common Elements. The distribution to each Unit Owner shall be made in the proportion that the estimated costs of reconstruction and repair of such damage to his or her Unit or Limited Common Element bears to the total of such estimated costs in all damaged Units and Limited Common Elements. However, no Unit Owner shall be paid an amount in excess of such estimated cost for his or her Unit or Limited Common Element. If there is a first Mortgagee, the distribution shall be paid to the Unit Owner and to the first Mortgagee jointly.

C. Surplus. It shall be presumed that the first moneys distributed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial Owners of the fund.

EMINENT DOMAIN

11.01. Proceeds. The taking of a portion of a Unit or of the Common Elements by eminent domain shall be deemed to be a casualty and the determination as to whether the Condominium will be reconstructed or repaired or continued after condemnation will be determined in the manner provided for in the ACT and under Reconstruction or Repair after casualty and the awards for such taking shall be deemed proceeds from insurance on account of the casualty and shall be deposited with the Association as Insurance Trustee. Even though the awards may be payable to a Unit Owner, the Unit Owner shall deposit the awards with the Association as Insurance Trustee; and in the event of failure to do so, in the discretion of the

Board of Directors of the Association an Assessment shall be made against a defaulting Unit Owner in the amount of his or her award, or the amount of such award shall be set off against the sums hereafter made payable to such Unit Owner.

11.02. Disbursement of Funds. If the Condominium is terminated after condemnation, the proceeds of the condemnation awards will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided in this Declaration for the distribution of insurance proceeds if the Condominium is terminated after damage to the Common Elements. If the Condominium is not terminated after condemnation, the size of the Condominium Property will be reduced and the Property damaged by the taking will be made usable in the manner provided by the ACT and as provided below. The proceeds of such award shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Association after damage to the Common Elements.

11.03. Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

A. Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, and the Owner of the Unit does not within a reasonable period of time provide the additional funds required for restoration, such additional funds may, in the discretion of the Board of Directors, be extended for restoration by the Association and be assessed against the Unit Owner as an Assessment.

B. Distribution of Surplus. The balance of the award, if any, shall be distributed to the Owner of the Unit and to any first Mortgagee of a Unit, the remittance being made payable jointly to the Unit Owner and any such first Mortgagee.

C. Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements, the Common Expenses and the Common Surplus appertaining to the Unit shall be reduced in accordance with the ACT.

11.04. Unit Made Unhabitable. If the taking is of the entire Unit, or so reduces the size of the Unit that it cannot be used practically or lawfully for any purpose permitted by the Declaration, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium.

A. Payment of Award. The award shall be paid first to any first Mortgagee in an amount sufficient to pay off its mortgage on such Unit; and then jointly to the Unit Owner and other Mortgagees of the Unit in an amount not to exceed the market value of the Condominium parcel immediately prior to the taking as diminished by any sums from the award previously reserved for any first Mortgagee; and the balance, if any, to the repairing

and replacing of the Common Elements damaged by the taking.

B. Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in condition for use by all of the Unit Owners in the manner approved by the Board of Directors; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required in this Declaration for further improvement of the Common Elements.

C. Adjustment of Shares in Common Elements, Common Expenses, and Common Surplus. The shares in the Common Elements, the Common Expenses, and the Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the other shares among the reduced number of Unit Owners. This adjustment shall be done by restating said share of the continuing Unit Owners as percentages aggregating one hundred percent (100%) so that the shares appurtenant to the Units of the continuing Owners shall be in the same proportions to each other as before the adjustment.

D. Assessments. If the balance of the award (after payments to the Unit Owner and such Owners' Mortgagees as above provided) for the taking is not sufficient to finance the alteration of the remaining portion of the Unit for use as part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. Such Assessments shall be made in proportion to the shares of those Unit Owners in the Common Elements after the changes effected by the taking.

E. Arbitration. If the market value of a Condominium parcel prior to the taking cannot be determined by agreement between the Unit Owners, Mortgagees of the Unit, and the Association within thirty (30) days after notice by either party, the value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination on an average of their appraisals of the Condominium parcels; and a judgment of specific performance on the decision rendered by the arbitrators may be entered into any court of competent jurisdiction. The cost of arbitration proceedings shall be assessed against all Owners of Units prior to the taking in proportion to the shares of the Owners in the Common Elements as they exist prior to the changes effected by the taking.

11.05. Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board of Directors; provided that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required elsewhere in this Declaration for further improvement of the Common Elements. The balance of the awards for the taking of the Common Elements, if any, shall be distributed to

the Unit Owners in the shares in which they own the Common Elements, after adjustment of these shares on account of the condemnation, except that if a Condominium parcel is encumbered by a first mortgage, the distribution shall be paid jointly to the Owner and the first Mortgagee of the Condominium parcel.

11.06. Conflict with ACT. If there is any conflict with the provisions of this article and the ACT, the provisions of the ACT shall control.

USE RESTRICTIONS

The use of the Condominium Property shall be in accordance with the provisions of this Declaration and with the following provisions so long as the Condominium exists.

12.01. Hotel Commercial Units.

Each Hotel Commercial Unit shall be dedicated entirely to the control of a single hotel management company operating from the Hotel Management Unit. No owner shall have any right to use, or control use of, such Owner's Unit, except that a Hotel Commercial Unit may be used by the Owner thereof, without the payment of Hotel rental, from time to time when not being rented to a member of the general public but such usage shall not exceed fourteen (14) days in any calendar year. Except as provided above related to limited personal use, use of the Hotel Commercial Units is limited to sleeping accommodations (and incidental enjoyment) supplied to transient guests through the Hotel Operator.

12.02. Pets. No animals or pets of any kind shall be kept in any Unit or any Property of the Condominium.

12.03. Unrestricted Right of Transfer. The right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit shall not be subject to any right of first refusal or similar restriction.

12.04. Regulations. Reasonable regulations concerning the use of the Condominium Property may be made by the hotel management company. Copies of such regulations or amendments thereto shall be furnished to all Unit Owners and guests of the Condominium upon request.

12.05. No Restrictions on Mortgaging Units. Anything construed in any of the Condominium Documents to the contrary, there shall be no restrictions on the right of a Unit Owner to mortgage his Unit.

12.06. Hotel Operator's Control and Use.

A. The Hotel Operator shall furnish room cleaning, linen supplies, telephone service, building and property maintenance, and maintenance of all Hotel Commercial Units, including maintenance and replacement of furnishings. The Hotel Operator shall have exclusive control of the rental of the Hotel Commercial Units for sleeping accommodations for transient guests.

B. The Association shall require, by contract, that the Hotel Operator ensure that all furnishing of the Hotel Commercial Units be standardized. The initial furniture package is included with the purchase of a Unit from the Developer. Under no circumstances will any Hotel Commercial Unit be allowed to have washers or dryers therein.

C. Maintenance expenses, including repairs and replacements of furnishing, of any Hotel Commercial Unit shall be deducted from rental income due the owner of that Unit, and if rental income is not sufficient during any month to cover such expenses, then the Hotel Operator may bill the Unit Owners and shall have a lien for such amount, the same as if such amount were a Common Expense Assessment owing to the Association.

12.07. Additional Use Restrictions.

A. No Unit Owner shall alter the appearance of such Owner's Hotel Commercial Unit or do any work therein or thereto or take any steps that tend to give any personal identification to the Unit or distinguish the Unit or its furnishings, decor, etc., from any other Unit. Without limiting the foregoing, no Owner shall store or leave any personal belongings in such Unit at any time that the Unit is not being used or occupied by such Owner and no Unit shall contain a cabinet, safe, closet, etc., that may be locked for the benefit of an Owner (this shall not prohibit the provision of locking cabinets, safes, closets, etc., in connection with which the key(s) is made available to any member of the general public who is renting the room.

B. The Association, may from time to time, adopt such rules and regulations (and delegate such authority from time to time to the Hotel management company) to promote the orderly and efficient operation of the Hotel.

C. Prior to any sale of any Unit by an Owner, the Owner must provide the prospective purchaser with a copy of the Hotel Operating Agreement and must notify the prospective purchaser of any proposed bookings of the Unit by the selling Owner for use by the Selling Owner. Additionally, the purchaser must as a condition of the purchase, ratify the Hotel Operating Agreement, appoint the Hotel Operator as its exclusive agent for the management and rental of the Hotel Operator.

AMENDMENT

This Declaration and the By-Laws of the Association may be amended as provided in the ACT.

NOTWITHSTANDING ANY PROVISION OF ANY OF THE CONDOMINIUM DOCUMENTS, NO AMENDMENT SHALL BE VALID WITHOUT THE WRITTEN CONSENT OF THE CITY OF GULF SHORES, WHICH CONSENT MAY BE REFUSED IF THE AMENDMENT PURPORTS TO RELIEVE THE CONDOMINIUM PROPERTY OF ANY RESTRICTION IMPOSED TO ENSURE THAT THE PROPERTY IS OPERATED AS A BONA-FIDE HOTEL.

PURCHASE OF CONDOMINIUM UNIT BY ASSOCIATION

14.01. Decision. The decision of the Association to purchase a Condominium Unit shall be made by the Board of Directors without the approval of the Members except as provided in this Article.

14.02. Limitation. If at any time the Association is already the Owner of or has agreed to purchase one or more Condominium Units, it may not purchase any additional Condominium Units without the prior written approval of Members holding seventy-five percent (75%) of the votes of those Members eligible to vote thereon, except as provided in this Article. A Member whose Condominium Unit is the subject matter of the proposed purchase shall be ineligible to vote thereon. Notwithstanding the foregoing, however, the foregoing limitations shall not apply to Condominium Unit either to be purchased at public sale resulting from a foreclosure of the Association's lien for delinquent Assessments where the bid of the Association does not exceed the amount found due the Association, or to be acquired by the Association in lieu of foreclosure of such lien if the consideration therefore does not exceed the cancellation of such lien. In any event, the Board of Directors or a designee thereof, acting on behalf of the Association, may only purchase a Condominium Unit in accordance with this Article, or as the result of a sale pursuant to the foreclosure of:

- (1) A lien on the Condominium Unit for unpaid taxes;
- (2) A lien of a mortgage;
- (3) The lien for unpaid Assessments;
- (4) Any other judgment lien or lien attaching to such Condominium Unit by operation of law.

NOTICE OF LIEN OR SUIT

15.01. Notice of Lien. A Unit Owner shall give notice in writing to the Secretary of the Association of every lien on his or her Condominium Unit, other than liens for first mortgages, taxes, and special Assessments, within five (5) days after he or she receives notice of the attaching of the lien.

15.02. Notice of Suit. A Unit Owner shall give notice in writing to the Secretary of the Association of every suit or other proceeding that may affect the title to his or her Condominium Unit, with such notice to be given within five (5) days after the Unit Owner obtains knowledge thereof.

15.03. Failure to Comply. Failure to comply with this section will not affect the validity of any judicial proceeding.

RULES AND REGULATIONS

16.01. Compliance. Each Unit Owner and the Association shall be governed by and shall comply with the terms of the Condominium Documents and the Rules and Regulations applicable to the Condominium Property. Ownership of a Unit subjects the Unit Owner to compliance with provisions of the Declaration, the Articles, the By-Laws, the Rules and Regulations of the Association, and any contracts to which the Association is a party, as well as to any amendments to any of the foregoing. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to an action for damages or injunctive relief, or both, in addition to other remedies provided in the Condominium Documents and the ACT.

16.02. Enforcement. The Association, through the Board of Directors, is hereby empowered to enforce the Condominium Documents and all Rules and Regulations of the Association by such means as are provided by the ACT, including the imposition of reasonable fines (after reasonable notice and opportunity to be heard) from time to time as set forth in the By-Laws. In the event a Unit Owner fails to maintain his or her Unit in the manner required in the Condominium Documents and any Rules and Regulations of the Association, the Association, through the Board of Directors, shall have the right to assess the Unit Owner and the Unit for the sums necessary to do the work required to effect compliance and to collect, and enforce the collection of, a Special Assessment therefor as provided in this Declaration. In addition, the Association shall have the right, for itself and its employees and agents, to enter such Owner's Unit and perform the necessary work to effect compliance.

16.03. Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his or her act, neglect, or carelessness or by that of any member of his or her family, his or her lessees, their guests, invitees, employees, or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire and casualty insurance rates occasioned by the use, misuse, occupancy or abandonment of a Unit, or the Common

Elements. The liability for such increases in insurance rates shall equal five (5) times the first resulting increase in the annual premium rate for such insurance.

16.04. No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction, or other provision of the ACT, the Condominium Documents, or any Rules and Regulations adopted pursuant thereto shall not constitute a waiver of the right to do so.

GENERAL PROVISIONS PERTAINING TO MORTGAGES

17.01. Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Unit number or address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

A. Any condemnation or casualty loss that affects either a material portion of the project or the Unit securing its mortgage,

B. Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Unit on which it holds the mortgage.

C. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

D. Any proposed action that requires the consent of a specified percentage of mortgage holders.

17.02. Blanket Mortgages. The entire Condominium Property, or some or all of the Units included therein, may be subjected to a single or blanket mortgage constituting a first lien thereon created by a recordable instrument executed by all of the Owners of the Property or Units covered thereby. Any Unit included under the lien of such mortgage may be sold or otherwise conveyed or transferred subject thereto. Any such mortgage shall provide a method whereby any Unit Owner may obtain a release of his or her Unit from the lien of such mortgage and a satisfaction and discharge in recordable form upon payment to the holder of the mortgage of a sum equal to the reasonable proportionate share attributable to his or her Unit of the then outstanding balance of unpaid principal and accrued interest, and any other charges then due and unpaid. The proportionate share of the mortgage required to be paid for release shall be determined by provisions pertaining thereto stated in the mortgage, or, if the mortgage contains no such provisions, then according to the proportionate share of the Common Elements of the Condominium attributable to such Unit or Units.

TERMINATION

The termination of the Condominium may be effected in accordance with the provisions of the ACT and by agreement of Unit Owners of Units to which at least ninety percent (90%)

of the votes in the Association are allocated. The agreement shall be evidenced by a written instrument executed in the manner required for a deed and recorded in the public records of Baldwin County, Alabama. After termination of the Condominium the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares.

Under the applicable provisions of the Zoning Ordinance of the City of Gulf Shores, the Real Property on which the Condominium is to be located is zoned BCR, which allows generally the Real Property to be used as a hotel but not as a "traditional" condominium. The City has approved the Condominium on the condition that the Condominium is operated as a hotel. Therefore, this Declaration of Condominium contains provisions that ensure that the Condominium is operated as a hotel. These provisions include the requirement that every Hotel Commercial Unit (meaning every Unit other than the Hotel Management Unit), be dedicated entirely to the control of a single Hotel Management Company operating from the Hotel Management Unit.

OPERATION OF THE PROPERTY OR ANY PART THEREOF IN VIOLATION OF THE ZONING ORDINANCE OF THE CITY OF GULF SHORES SHALL BE GROUNDS FOR PROCEEDINGS FOR REVOCATION OF THE CERTIFICATE OF OCCUPANCY ISSUED FOR THE PROPERTY AND FOR SUCH OTHER LEGAL ENFORCEMENT ACTIONS AS PROVIDED BY LAW.

COVENANT AGAINST PARTITION

There shall be no judicial or other partition of the Condominium Property or any part thereof, nor shall Developer or any Person acquiring any interest in the Property or any part thereof seek any such partition unless the Property has been removed from the provisions of the ACT.

MISCELLANEOUS

20.01. Intent. It is the intent of the Developer to create a Condominium pursuant to the ACT. In the event that the Condominium created by this Declaration shall fail in any respect to comply with the ACT, then the common law as the same exists on the filing date of this Declaration shall control, and the Condominium hereby created shall be governed in accordance with the laws of the State of Alabama, the By-Laws, the Articles, and all other instruments and exhibits attached to or made a part of this Declaration.

20.02. Covenants, Conditions and Restrictions. All provisions of the Condominium Documents shall, to the extent applicable and unless otherwise expressly therein provided to the contrary, be perpetual and be construed to be covenants running with the land and with every part thereof and interest therein; and all of the provisions of the Condominium Documents shall be binding on and inure to the benefit of any Owner of all or any part thereof, or interest therein, and his or her heirs, executors, administrators, legal

representative, successors, and assigns, but said provisions are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All Unit Owners and Occupants shall be subject to and shall comply with the provisions of the Condominium Documents and any Rules and Regulations promulgated thereunder.

20.03. Severability. The invalidity in whole or in part of any covenant or restriction or any paragraph, subparagraph, sentence, clause, phrase, word or other provision of this Declaration, the Articles, the By-Laws, any Rules and Regulations of the Association promulgated pursuant thereto, and any exhibits attached hereto, as the same may be amended from time to time, or the ACT, or the invalidity in whole or in part of the application of any such covenant, restriction, paragraph, subparagraph, sentence, clause, phrase, word or other provision shall not affect the remaining portion thereof.

20.04. Notice. The following provisions shall govern the construction of the Condominium Documents, except as may be specifically provided to the contrary herein: All notices required or desired under the Condominium Documents to be sent to the Association at the address as may be designated from time to time by notice in writing to all Unit Owners. Except as provided specifically to the contrary in the ACT, all notices to any Unit Owner shall be delivered in person or sent by first-class mail to the address of such Unit Owner at the Condominium, or to such other address as he or she may have designated from time to time, in a writing to the Association. Proof of such mailing or personal delivery to a Unit Owner by the Association may be provided by the affidavit of the Person or by a post office certificate of mailing. All notices to the Association of a Unit Owner shall be deemed to have been given when delivered to the addressee in person or by a post office certificate of mailing.

20.05. Governing Law and Arbitration of Disputes. Should any dispute arise between any of the parties whose rights or duties are affected or determined by the Condominium Documents, such dispute shall be governed by the laws of the State of Alabama, and such dispute, disagreement, or question between the parties, including any between the Association and Developer, except a dispute concerning the filing or enforcement of a lien as provided for elsewhere in this Declaration, shall be submitted to arbitration under the Rules of the American Arbitration Association for commercial disputes or as the concerned parties may later agree in writing. The arbitration shall render a decision which shall be binding on all parties to the arbitration, based on a traditional and standard interpretation of the laws of the State of Alabama. All parties subject to this Declaration forego all right to take legal action thereunder except to enforce any arbitration award, which award shall be a condition precedent to any right of legal action that any party may have against the other. It shall be deemed that each party who takes title subject to the terms of this Declaration stipulates that this Development and contracts relating to same have a substantial effect on interstate commerce.

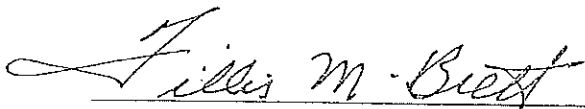
20.06. Waiver. No provisions contained in the Condominium Documents shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

20.07. Ratification. Each Unit Owner, by reason of having acquired ownership of his or her Condominium Parcel, whether by purchase, gift, operation of law, or otherwise, shall be deemed to have acknowledged and agreed that all the provisions of the Condominium Documents and any Rules and Regulations promulgated thereunder are fair and reasonable in all material respects.

20.08. Captions. The captions used in the Condominium Documents are inserted solely as a matter of convenience and reference and shall not be relied on and/or used in construing the effect or meaning of any of the text of the Condominium Documents.

20.09. Costs and Attorney's fees. In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be awarded by the Court.

IN WITNESS WHEREOF, the said Tillis M. Brett, William T. Robinson, Jr., and Thomas E. Brett, have caused **THESE PRESENTS** to be executed this day and year as first above written.

 (SEAL)
TILLIS M. BRETT

 (SEAL)
WILLIAM T. ROBINSON, JR.

 (SEAL)
THOMAS E. BRETT

STATE OF ALABAMA)

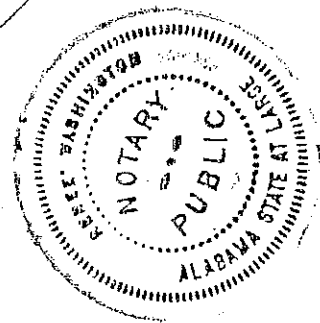
COUNTY OF BALDWIN)

I, Reneé Washington, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that TILLIS M. BRETT, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he has executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24th day of September, 2003.


Notary Public

My Commission Expires: 10/08/03

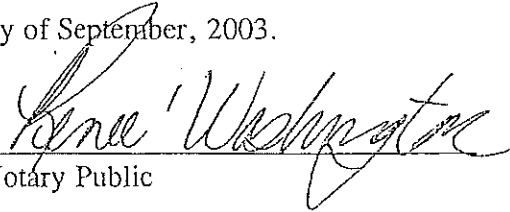


STATE OF ALABAMA)

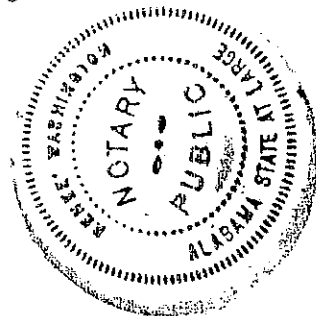
COUNTY OF BALDWIN)

I, Reneé Washington, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that WILLIAM T. ROBINSON, JR., whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he has executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24th day of September, 2003.


Notary Public

My Commission Expires: 10/08/03



STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, Renee Washington, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that THOMAS E. BRETT, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of said instrument, he has executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 24th day of September, 2003.


Notary Public

My Commission Expires: 10/08/03

THIS INSTRUMENT PREPARED BY:

Jule R. Herbert Jr.
Herbert & Harrell LLC
Attorneys at Law
P O Drawer 3889
Gulf Shores AL 36547
(251) 968-4764



Instrument 760731 Page 46of104

BY-LAWS
OF
PHOENIX ALL SUITES HOTEL CONDOMINIUM
OWNERS ASSOCIATION, INC.

ARTICLE I
PURPOSE AND APPLICATION

1.01. Purpose and Application. The following are the By-Laws of Phoenix All Suites Hotel Condominium Owners Association, Inc., hereinafter referred to as the "Association," a not for profit corporation, organized pursuant to the Alabama Nonprofit Corporation Act, §§ 10-3A-1 et. seq., *Code of Alabama* (1975), and the Alabama Uniform Condominium Act of 1991 §§ 35-8A-101 et. seq., *Code of Alabama* (1975), formed for the purpose of managing and operating a certain condominium located in Baldwin County, Alabama, known as Phoenix All Suites Hotel, a condominium, hereinafter referred to as the "Condominium."

The provisions of the By-Laws are applicable to the entirety of the Condominium property.

All present or future Owners, tenants and their employees, and any other persons or entities that might use the facilities of Phoenix All suites Hotel, a condominium, in any manner, are subject to the regulations and provisions set forth in these By-Laws and to the Rules and Regulations established and promulgated by the Association of Unit Owners pursuant to the By-Laws and the Condominium Declaration.

The mere acquisition or rental of any of the Units of Phoenix All Suites Hotel, a condominium, or the mere act of occupancy of any said Units will signify that these By-Laws and the provisions of the Declaration and any Rules and Regulations, as they each may be amended from time to time, are accepted, ratified and will be complied with.

EXHIBIT "C"

ARTICLE II PRINCIPAL OFFICE AND AGENT

2.01. Principal Office. The principal office of the Association shall be at 201 East Beach Boulevard, Gulf Shores, Alabama, 36542, or at such other place as may be designated subsequently by the Board of Directors or as the business of the corporation may require. All books and records of the Association shall be kept at its principal office. The mailing address of the Association shall be 1090 Industrial Parkway, Saraland, Alabama 36571.

2.02. Principal Agent. The initial principal agent of the Association at such office shall be Thomas E. Brett.

ARTICLE III DEFINITIONS

3.01. Declaration Defined. "Declaration" shall mean that certain Declaration of Condominium of Phoenix All Suites Hotel, a condominium, filed in the Office of the Judge of Probate of Baldwin County, State of Alabama, as the same may be amended from time to time in accordance with the terms thereof.

3.02. Other Terms Defined. Other terms used herein shall have the meaning given to them in the Declaration and are hereby incorporated by reference and made a part hereof.

ARTICLE IV MEMBERSHIP

4.01. Qualification. The sole qualification for membership shall be ownership of a Unit in the Condominium. No membership may be separated from the Unit to which it is appurtenant.

EXHIBIT "C"

4.02. No Additional Qualifications. No initiation fees, costs or dues shall be assessed against any person as a condition of the exercise of the rights of membership except such assessments, levies, and charges as are specifically authorized by the Declaration.

4.03. Succession. The membership of each Unit Owner shall automatically terminate on the conveyance, transfer, or other disposition of a Unit Owner's interest in the Unit. The Unit Owner's membership shall automatically be transferred to the new Unit Owner succeeding to such ownership interest. On the conveyance, transfer, or other disposition of a portion of a Unit Owner's interest in a Unit, the transferring Unit Owner and the transferee shall each be members of the Association in accordance with the ownership interest of each following such conveyance or transfer.

4.04. Certificates of Membership. The Association shall issue no shares of stock of any kind or nature whatsoever.

ARTICLE V MEETINGS OF MEMBERS

5.01. Annual Meeting. The annual meeting of the members shall be held on the date, at the place, and at the time, as determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and not later than thirteen months after the last preceding annual meeting. The purpose of the annual meeting shall be to elect the Directors, and to transact any other business authorized to be transacted by the Members or stated in the notice of the meeting sent to the Members in advance thereof.

5.02. Special Meeting. Special meetings of the Members may be called at any time by the President, a majority of the Board, or on receipt by the Board of a written request of

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Members representing at least twenty percent (20%) of the total votes of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

5.03. Notice of Meeting. Notice of all meetings of Members shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or By-Laws, any budget changes, and any proposal to remove an officer or a member of the Board. Notices shall be prepared and delivered by or at the direction of the Secretary, and may be delivered either personally or by mail to a Member at the address given to the Board by said Member, or to the Member's Unit if no such address has been given to the Board. Notice of the annual meeting and special meetings shall be mailed or delivered to each Member not less than ten (10) days prior to the meeting. No notices of annual or special meetings shall be mailed or delivered more than fifty (50) days prior to such meeting. A copy of the notice of any meeting of Members shall also be posted in a conspicuous place on the Condominium Property at least seven (7) days prior to the meeting. Proof of such notice shall be given by the affidavit of the person giving the notice.

5.04. Waiver of Notice. Any Member or mortgagee may waive the right to receive notice of the annual meeting by sending a written waiver to the Board of Directors. Notice of specific meetings may be waived before or after the meeting, orally or in writing. Attendance by a Member at an annual or special meeting, either in person or by proxy, shall constitute waiver of notice of such meeting.

5.05. Quorum. A quorum of Members for any meeting shall be deemed present throughout such meeting if Members, represented in person or by proxy, holding more than fifty-one percent (51 %) of the votes entitled to be cast at such meeting are present at the beginning of such meeting, except as otherwise provided by law, by the Articles of Incorporation, by the Declaration of Condominium, or by the By-Laws.

5.06. Adjournment for Lack of Quorum. In the absence of a quorum at any meeting of members, a majority of those Members entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting, from time to time, without notice other than announcement of the meeting, until the requisite number of members, present in person or by proxy, shall be present. At such adjourned meeting at which the requisite number of votes shall be present, any business may be transacted which might have been transacted at the meeting as originally noticed.

5.07. Action Without Meeting. Any action which may be taken at a meeting of the Members may also be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by the number of members required to take such action at a meeting, and is filed with the Secretary of the Association.

5.08. Order of Business. The order of business at annual meetings of Member and, as far as practical, at all other meetings of Members, shall be:

Call to Order

Calling of the roll and certifying of proxies

Proof of notice of meeting or waiver of notice

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Reading and disposal of any unapproved minutes

Reports of officers

Reports of committees

Election of Directors

Unfinished business

New business

Adjournment

5.09. Minutes of Meeting. The minutes of all meetings of Members shall be kept in a book available for inspection by Unit Owners or their authorized representatives.

5.10. Proviso. Provided, however, the Developer shall retain control of the Association in accordance with the terms and conditions of the Declaration.

ARTICLE VI MEMBER'S VOTING RIGHTS

6.01. Number of Votes. The number of votes to which each Unit is entitled is provided in the Declaration. The votes of a Unit shall not be divisible.

6.02. Vote Required to Transact Business. When a quorum is present, the holders of a majority of the voting rights present, in person or by proxy, shall decide any question brought before the meeting, unless the question is one on which, by express provision of the Act or the Condominium Documents, a different number or manner of voting is required, in which case the express provision shall govern and control the decision in question.

6.03. Designation of Voting Member. If a Unit is owned by more than one person, the person entitled to cast the vote or votes for the Unit may be designated by a certificate

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signed by all of the record Owners of the Unit and filed with the Secretary of the Association. If a Unit is owned by a corporation, partnership, trust, or other legal entity, the person entitled to cast the vote or votes for the Unit may be designated by a certificate of appointment signed by a duly authorized representative of the entity and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit involved. A certificate may be revoked by any Owner of an interest in the Unit.

6.04. Failure to Designate a Voting Member. If a Unit is owned by more than one person and they do not designate a voting member, the following provisions shall apply:

(1) If more than one such Owner is present at any meeting, and they are unable to concur in a decision on any subject requiring a vote, they shall lose their right to vote on that subject at that meeting, however, said vote or votes shall be included in the determination as to the presence of, or lack thereof, of a quorum.

(2) If only one such Owner is present at a meeting, that person shall be entitled to cast the vote or votes pertaining to the Unit.

(3) If more than one such Owner is present at the meeting, and they concur, any one such Owner may cast the vote or votes for the Unit.

6.05. Voting by Proxy. Votes may be cast in person or by proxy, as provided for in the Act. All proxies must be in writing, dated, signed by the Member generating the proxy, and filed with the Secretary of the Association before the appointed time of any meeting to

which it applies. A Member may revoke a proxy at any time by delivering a written notice of revocation to the Association.

6.06. Conditional Proxy. The granting of a mortgage on a Unit by its owner(s) shall be construed as conferring upon the mortgagee a conditional proxy to cast the vote or votes attributable to such Unit at any regular or special meeting of the Association. The condition of such proxy shall be notice by such mortgagee to the Association, in writing, of its intent to exercise the conditional proxy rights granted to it, as mortgagee, by the terms of this subparagraph. In the absence of such written notice, the Association shall be entitled to recognize the Unit Owner(s) votes attributable to their Unit. However, once such written notice is received by the Association, the mortgagee's right to cast the vote or votes attributable to that Unit shall be recognized by the Association until the mortgagee withdraws its intent to cast such votes, in writing, or until the mortgage is paid in full and satisfied of record, whichever first occurs.

ARTICLE VII BOARD OF DIRECTORS

7.01. Number. The affairs of this Association shall be managed by a Board of Directors, consisting of the number as may be selected by the members, however the Board shall consist of no less than three (3) persons nor more than five (5) persons.

7.02. Qualification. Except for Directors appointed by the Developer, each Director shall be a Unit Owner. If a Unit Owner is a trust, then the beneficiary of the trust may be a Director; and if a Unit Owner is a corporation or partnership, then an officer, partner, or employee of such Unit Owner may be a Director. If a Director shall cease to meet such

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qualifications during his term, he shall cease to be a Director and his place on the Board shall be deemed vacant.

7.03. Appointment by Developer. The initial Board of directors, as well as successor Directors, shall be appointed by the Developer/Declarant, and may be removed by the Developer/Declarant at any time. The Developer/Declarant shall have the right to appoint and remove Directors in accordance with the terms of the Declaration. The Directors appointed by the Developer need not be Unit Owners.

7.04. Nomination for Election. Nomination for election to the Board of Directors shall be made from the floor at the annual meeting of Members or at any other meeting of Members called for the purpose of electing Directors. Nominations shall also be made by a nominating committee appointed by the Board prior to the annual meeting of the Members or prior to any other meeting of members called for the purpose of electing Directors.

7.05. Initial Election of Directors. At such time as the Unit Owners are entitled to elect one or more Directors, in accordance with the terms of the Act, the Association shall call a meeting of the Members to elect the Director. The Association shall give not less than ten (10) days nor more than fifty (50) days notice of the meeting to each Member. The meeting may be called and the notice may be given by any Unit Owner if the Association fails to do so. The election shall be conducted in the manner specified in Paragraph 7.06.

7.06. Election of Directors. Directors shall be elected at the annual meeting of Members. The election shall be by secret ballot (unless dispensed with by unanimous consent), and each Member shall be entitled to vote for each vacancy. There shall be no

cumulative voting. Those candidates receiving the greatest number of votes cast either in person or by proxy shall be elected.

7.07. Term. Each Director elected by the Members shall hold office until the next annual meeting of Members, and until his successor shall be elected and qualified, or until he resigns or is removed in any manner provided elsewhere herein. Each Director appointed by the Developer shall hold office until he resigns, is removed by the Developer, or his term expires as provided for herein and in the Declaration.

7.08. Vacancies. Any vacancy in the position of a Director elected by the Members of the Association shall be filled by a majority vote of the remaining Directors, and any Director so elected shall hold office for a term equal to the unexpired term of the Director whom he succeeds. Any vacancy in the position of a Director appointed by the Developer shall be filled by the Developer, except as provided in the Act.

7.09. Removal. Any Director may be removed for cause by the concurrence of two-thirds (2/3) of the votes of the Association in accordance with the provisions of the Act. The vacancy in the Board of Directors so created shall be filled by the Members at the same meeting.

7.10. Compensation. A Director shall not receive any compensation for any service he may render to the Association as a Director; provided, however, that any Director may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

7.11. Proviso. Provided, however, the Developer shall retain control of the Association in accordance with the terms and conditions of the Declaration.

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ARTICLE VIII
MEETINGS OF DIRECTORS

8.01. Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly at such place, and at such time and date as the Board shall designate. Notice of the regular meetings shall be given to each Director, personally or by mail, telephone, or telegraph, and shall be transmitted at least fourteen (14) days prior to the meeting.

8.02. Special Meetings. Special meetings of the Directors may be called by the President at any time; and must be called by the President or Secretary at the written request of a majority of the Directors. A notice of the meeting stating the time, place and purpose of the meeting shall be given to each Director, personally or by mail, telephone, or telegraph, at least three days prior to the meeting.

8.03. Open Meetings. All meetings of the Board of Directors shall be open to all members of the Association, and notice of such meetings shall be posted conspicuously on the Condominium Property at least forty-eight (48) hours prior to the meeting, except in the event of an emergency.

8.04. Waiver of Notice. Any Director may waive notice of a meeting either before or after the meeting, or may consent to the holding of a meeting without notice. Attendance by any Director at a meeting shall constitute waiver of notice of that meeting, except when attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business on the grounds that the meeting was not lawfully called.

8.05. Quorum. A quorum shall consist of the Directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the Directors approved by a majority of

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the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such a Director for the purpose of determining a quorum.

8.06. Action Without Meeting. Any action permitted or required to be taken at a meeting of the Directors may be taken without a meeting if written consent setting forth the action so taken shall be signed by all the Directors, and filed with the minutes of the proceedings of the Board.

8.07. Presiding Officer. The presiding officer of the Directors' meeting shall be the President. In the absence of the President, the Directors present shall designate one of their number to preside.

8.08. Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a minute book available for inspection by Unit Owners, or their authorized representatives, or by Directors at any reasonable time.

8.09. Order of Business. The order of business at Directors' meetings shall be:

Call of Roll

Proof of due notice of meeting

Reading and disposal of unapproved minutes

Reports of Officers and Committees

Election of Officers

Unfinished business

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New business

Adjournment

**ARTICLE IX
POWERS AND DUTIES OF THE DIRECTORS**

9.01. Specific Powers. The Board of Directors shall have the power to exercise all powers, duties, and authority vested in the Association by the Act, the Declaration, these By-Laws, or the Hotel Operating and Rental Agreement except for such powers and duties reserved thereby to the Members or the Developer. The powers and duties of the Board shall include, but shall not be limited to, the following:

- (1) To elect and remove officers of the Association as hereinafter provided.
- (2) To administer the affairs of the Association and the Condominium Property.
- (3) To maintain bank accounts on behalf of the Association and to designate signatories required therefor.
- (4) To sell, lease, mortgage, or otherwise deal with Units acquired by the Association.
- (5) To pay the cost of all taxes and utilities assessed against the Condominium that are not assessed and billed to the Owners of individual Units.
- (6) To borrow money on behalf of the Association when required in connection with the operation, care, upkeep, and maintenance of the Common and Limited Common Elements, provided, however, that the consent of a least two-thirds (2/3) of the votes of the Members, obtained at a meeting duly called and held for such purpose in accordance with the provision of these By-Laws, shall be required for the borrowing of such money.

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(7) To estimate the amount of the annual budget and to make, levy, enforce, and collect Assessments against Unit Owners to defray the costs, expenses, and losses for the Condominium, and to provide adequate remedies for failure to pay such assessments.

(8) To use the proceeds of Assessments in the exercise of its powers and duties.

(9) To maintain, repair, replace, and operate the Condominium Property, including the reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the project and the right to grant permits, licenses, and easements over the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the project.

(10) To purchase insurance on the Property, and to purchase insurance for the protection of the Association and its Members, and the members of the Board of Directors and Officers of the Association.

(11) To reconstruct improvements after casualty and to further improve the Property.

(12) To make and amend reasonable Rules and Regulations respecting the use of the Property and the operation of the Condominium.

(13) To enforce by legal means the provisions of the Act, the Declaration, the Articles of Incorporation, these By-laws, and the Rules and Regulations for the use of the Property.

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(14) To contract for the management of the Property and to delegate to such managing agent all powers and duties of the Association except such as are specifically required by the Declaration to have approval of the Board of Directors or the membership of the Association.

(15) To contract for the management or operation of portions of the Common Elements of the Condominium susceptible to separate management or operation, and to lease such portions.

(16) To retain attorneys and accountants.

(17) To employ personnel to perform the services required for proper operation of the Condominium.

(18) Except as prohibited in the Declaration or the Act, to purchase a Unit of the Condominium for the purposes authorized in the Declaration.

(19) To maintain a class action and to settle a cause of action on behalf of Owners with reference to the Common Elements, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from such elements serving only one Unit; and to bring an action and to settle the same on behalf of two or more of the Owners, as their respective interests may appear, with respect to any cause of action relating to the Common Elements or more than one condominium Unit; all as the Board deems advisable.

(20) To procure such fidelity bonds, as the Board deems advisable, covering officers and employees of the Association handling and responsible for the Association's funds

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and personal property, and to procure Directors' and Officers' liability insurance, if the Board deems it advisable, and the premiums of such bonds and insurance shall be paid by the Association as Common Expenses.

9.02. Reservation of Powers. The termination of any Hotel Operating and Rental Agreement entered into by the Owners or the Association may be terminated only with the affirmative vote of Members owning Units representing at least sixty-seven percent (67%) of the percentage interests of the Condominium.

9.03. Committees. The Board of Directors may, by resolution, appoint such committees as deemed appropriate in carrying out its purpose, and such committees shall have the powers of the Board of Directors for the management of the affairs and business of the Association to the extent provided in the resolution designating such a committee. Any such committee shall keep regular minutes of its proceedings and shall report the same to the Board of Directors.

9.04. Managing Agent. The Board of Directors shall be authorized to employ the services of a manager or managing agent, who may either be a Director, Officer, or employee of the Association, or an independent person or firm qualified to manage the Property and affairs of the Condominium under the supervision of the Board. The compensation paid to any such manager or managing agent shall be in the amount established from time to time by the Board.

ARTICLE X OFFICERS

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10.01. Election. The executive officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer. The officers shall be elected annually by the Board of Directors. Any two or more offices may be held by the same person, except the President shall not also be the Secretary. All executive officers shall be elected from the duly elected or appointed Board members.

10.02. Term. Each officer shall hold office for the term of one year and until his successor shall have been appointed or elected and qualified, provided that any officer may succeed himself.

10.03. Special Appointments. The Board may appoint such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

10.04. Resignation and Removal. Any Officer may be removed from office either with or without cause by the vote of a majority of the Directors present at any meeting. Any Officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

10.05. Vacancies. A vacancy in any office shall be filled by a majority vote of the Directors at any meeting. An Officer elected to fill a vacancy shall hold office for term equal to the unexpired term of the Officer he succeeds.

10.06. Compensation. An Officer shall not receive any compensation for any service he may render to the Association as an Officer; provided, however, that any Officer may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

10.07. Duties of the President. The President, who shall be a Director, is the Chief Executive Officer of the Association, and shall have all of the powers and duties that are usually vested in the office of President of a condominium association, including but not limited to the following powers:

- (1) To preside over all meetings of the Members and of the Board.
- (2) To sign as President all deeds, contract, and other instruments that have been duly approved by the Board.
- (3) To call meetings of the Board whenever he deems it necessary in accordance with the rules.
- (4) To have the general supervision, direction and control of the affairs of the Association.
- (5) To, along with the Secretary, prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

10.08. Duties of the Vice-President. The Vice-President, who shall be a Director, shall have all of the powers and duties that are usually vested in the office of Vice-President of a condominium association, including but not limited to the following powers:

- (1) To perform the duties and exercise the powers of the President, in the absence or disability of the President.

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(2) To assist the President in the exercise of his powers and the performance of his duties.

10.09. Duties of the Secretary. The Secretary, who shall be a Director, shall have all of the powers and duties that are usually vested in the secretary of a condominium association, including but not limited to the following powers:

(1) To keep a record of all meetings and proceedings of the Board and of the Members.

(2) To keep the seal of the Association, if any, and affix it on all papers requiring said seal.

(3) To prepare and serve such notices of meetings to the Board and the Members required either by law or by these By-Laws.

(4) To keep current records showing the Members of the Association together with their addresses.

(5) To sign as Secretary all deeds, contracts, and other instruments which have been duly approved by the Board, if said instrument requires a second Association signature.

(6) To, along with the President, prepare, execute, certify, and record amendments to the declaration on behalf of the Association.

10.10. Duties of the Treasurer. The Treasurer shall be the financial officer of the Association, and shall have all powers and duties that are usually vested the treasurer of a condominium association, including but not limited to the following powers:

(1) To receive and deposit in such bank or banks as the Board may from time to time direct, all of the funds of the Association.

(2) To be responsible for and supervise the maintenance of books and records to account for such finds and other Association assets.

(3) To disburse and withdraw said funds as the Board may from time to time direct, and in accordance with prescribed procedures.

(4) To prepare and distribute the financial statements for the Association.

(5) To prepare a record of all receipts and expenditures.

(6) To prepare an account for each Unit, setting forth any shares of Common Expenses or other charges due, the due dates thereof, the present balance due and any interest in Common Surplus.

ARTICLE XI FISCAL MANAGEMENT

11.01. Fiscal Year. The fiscal year of the Association shall be such as shall from time to time be established by the Association.

11.02. Annual Budget. The Board of Directors shall adopt a budget for each fiscal year in accordance with the Act. The annual budget of the Association shall be detailed and shall show the amounts budgeted by accounts and expense classifications. Expenses shall be estimated for each category and item of the Common Expenses. The budget shall also include reserve accounts for capital expenditures, deferred maintenance, reserves, and contingencies. The amount reserved shall be computed by means of a formula that is based on the estimated life and estimated replacement cost of each reserve item. The budget shall also set forth each

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Unit Owner's proposed Assessment for Common Expenses. Copies of the budget and proposed assessments shall be transmitted to each Member in accordance with the Act.

11.03. Adoption of the Annual Budget. The Board of Directors shall prepare or cause to be prepared a proposed annual budget for each fiscal year of the Association. Within thirty (30) days after adoption of any proposed budget for the condominium, the Board shall provide a copy of the budget to all Unit Owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) days nor more than thirty (30) days after delivery or mailing of the proposed budget to the Unit Owners. Unless at that meeting a majority of all the Unit Owners present in person or by proxy reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board. The Board shall furnish copies of the final annual budget to each Unit Owner within thirty (30) days after the adoption.

11.04. Assessments. Assessments for Common Expenses shall be made in accordance with the Declaration, the Act, and these By-Laws. Assessments shall be collected by the Association on a monthly basis as follows: On or before the first day of each month of the fiscal year for which the Assessments are made, each Unit Owner shall pay one-twelfth (1/12th) of his share of the Common Expenses for such year as shown by the annual budget. The assessments of the Common Expenses shall be as set forth in the Declaration, but the yearly assessment for Common Expenses each Unit Owner shall be in proportion to his respective ownership interests in the Common Elements. The Board of Directors may cause to

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be sent to each Unit Owner, on or before the first day of each month, a statement of the monthly Assessment. However, the failure to send or receive such monthly statement shall not relieve the Unit Owner of his obligation to make timely payment of the monthly Assessment. If the Board shall not approve an annual budget or shall fail to determine new monthly Assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay the amount of his monthly Assessment as last determined. No Unit Owner shall be relieved of his obligation to pay his Assessment by abandonment of his Unit or lack of use of the Common or Limited Common Elements. The collection for assessments shall begin at such time as the First Unit is conveyed by the Développeur.

11.05. Reserves for Replacements. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Elements and those Limited Common Elements which the Association may be obligated to maintain. The fund shall be maintained out of regular assessments.

11.06. Depository. The depository of the Association shall be such bank or banks and/or savings and loan associations as shall be designated from time to time by the Directors and in which monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by checks signed by such persons as are authorized by the Directors.

11.07. Lien for Expenses. If any Unit Owner shall fail or refuse to make any payment of the Common Expenses or other assessment or fine imposed against him when due, the amount due, together with costs, reasonable attorney's fees, and interest thereon at the maximum percentage rate as may then be permitted under the laws of the State of Alabama,

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from and after the date said Common Expenses or other assessments or fines become due and payable in accordance with applicable law, shall constitute a lien on the interest of the Unit Owner in the Property.

11.08. Priority of Lien. Any lien of the Owners Association shall be the subject to the rules of priority as stated in the Declaration and other applicable state laws.

11.09. Acceleration of Assessment Installments. In accordance with the provisions of the Act, if an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

11.10. Default.

(1) In the event an Owner of a Unit does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association may foreclose the lien encumbering the Unit created by non-payment of the required moneys in the same fashion as mortgage liens on real estate are foreclosed; provided that thirty (30) days prior notice of the intention to foreclose shall be mailed, postage prepaid, to the Unit Owner and to all persons having a mortgage lien or other interest of record. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid in the Unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. In lieu of (or in addition to) foreclosing its lien, the Association may bring suit to recover a money judgment, brought by or on behalf of the Association against a Unit Owner, and the losing defendant shall pay the cost thereof, together with a reasonable attorney's fee.

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(2) If the Association becomes the Owner of a Unit by reason of foreclosure, it shall offer said Unit for sale and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the re-sale of the Unit, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the Unit in question. All moneys remaining after deducting the foregoing items of expenses shall be returned to the former Owner of the Unit in question.

11.11. Supplemental Assessments. If during the course of any fiscal year, it shall appear to the Board that the monthly Assessments, as determined in the annual budget, are insufficient or inadequate to cover the estimated Common Expenses for the remainder of such year, then the Board shall prepare and approve a supplemental budget covering the estimated deficiency. Copies of the supplemental budget shall be delivered to each Unit Owner, and thereupon a supplemental Assessment shall be made to each Unit Owner for his proportionate share of the supplemental budget.

11.12. Annual Statement. Within sixty (60) days after the end of each fiscal year, the Board shall cause to be furnished to each Unit Owner, a statement for the year so ended showing the receipts and expenditures of the Association, and such other information as the Board may deem desirable. The Association shall make an audited statement for the preceding fiscal year (if the project has been established for a full fiscal year) available to the

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holder, insurer, or guarantor of any first mortgage that is secured by a Unit in the condominium on submission of a written request for it. Said audited financial statement shall be available within one hundred twenty (120) days of the Owners' association fiscal year end.

11.13. Accounting Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with the requirements of the Act. The Board shall cause to be kept, in accordance with generally accepted accounting principles, a record of all receipts and expenditures; and a separate account for each Unit showing the Assessments or other charges due, the due dates thereof, the present balance due, and any interest in Common Surplus. Such records shall be open to inspection by Unit Owners and his authorized agents at reasonable times.

11.14. Information. The Association shall be required to make available to Unit Owners, lenders, and to holder, insurers or guarantors of any first mortgage, current copies of the Declaration, By-Laws, or other Rules and Regulations concerning the Project, and the books, records, financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances. In addition to the above, any holder of a first mortgage is entitled, upon written request, to a financial statement for the immediately preceding fiscal year.

11.15. Fidelity Bonds. Fidelity bonds shall be required by the Board from all officers and employees of the Association and from any manager handling or responsible for Association funds and from any employee, agent or subcontractor of a manager handling or responsible for Association funds. The amount of such bonds shall be determined by the

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Directors, but shall be at least the amount of one hundred and fifty percent (150%) of the total annual Assessments against Members for recurring expenses. The premiums on such bonds shall be paid by the Association.

11.16. Lender's Notices. Upon written request to the Owners Association, identifying the name and address of the holder, insurer or guarantor and the Unit number of address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

(a) Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its mortgage.

(b) Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage.

(c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owner's Association.

(d) Any proposed action that requires the consent of a specified percentage of mortgage holders.

ARTICLE XII OWNER OBLIGATIONS AND COVENANTS

12.01. Assessment. Every Owner of any Unit in the Condominium shall contribute pro rata toward the expense of administration, maintenance, alteration, repair and improvement of the Condominium, as provided in the Articles, the Declaration or these By-Laws. Each assessment against a Unit shall also be the personal obligation of the Owner at the time the assessment fell due. Such personal obligation shall not pass to successors in title unless assumed by such successors, or required by applicable law.

EXHIBIT "C"

12.02. Maintenance and Repair. Every Owner of any Unit in the Condominium shall promptly perform all maintenance and repair work, as provided in the Articles, the Declaration or these By-Laws. An Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any Common Areas or facilities damaged through the owner's fault.

12.03. Use. The Condominium Property shall be utilized in accordance with the provisions of the Declaration, these By-Laws, and the Rules and Regulations of the Association.

ARTICLE XIII RULES AND REGULATIONS

13.01. Rules and Regulation. The Board of Directors may from time to time adopt, modify, amend, or add to rules and regulations concerning the use of the Condominium Property; provided, however, that a majority of the Members may overrule the Board with respect to any such rules and regulations or modifications thereof or any amendments or additions thereof. Copies of such rules and regulations, or any amendments, additions, or modifications, shall be delivered to each Unit Owner not less than fourteen (14) days prior to the effective date thereof. No rule or regulation that is in conflict with the Condominium Documents shall be adopted. The rules shall restrict the keeping of pets to Unit Owners.

ARTICLE XIV AMENDMENTS TO THE BY-LAWS

14.01. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

EXHIBIT "C"

14.02. Adoption. Except in the cases where this document may be amended by Developer/Declarant under the terms hereof or the Act, By-Laws may be altered, amended, or appealed or new By-Laws may be adopted by the affirmative vote or agreement of Unit Owners or Units to which at least sixty seven percent (67%) of the votes in the Association are allocated. In addition, amendments of a material nature (as defined below) must be agreed to by eligible mortgage holders (as defined below) who represent at least 51% of the votes of Unit estates that are subject to mortgages held by eligible holders. Eligible mortgage holders are those holders of a first mortgage on a Unit estate who have submitted a written request that the Owners' Association notify them on any proposed action requiring the consent of a specific percentage of eligible mortgage holders. Amendments of a material nature include a change to any of the provisions governing the following:

- voting rights;
- increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- reductions in reserves for maintenance, repair, and replacement of Common Elements;
- responsibility for maintenance and repairs;
- reallocation of interests in the general or Limited Common Elements, or rights to their use;
- redefinition of any Unit boundaries;
- convertibility of Units into Common Elements or vice versa;
- Expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project;

EXHIBIT "C"

- hazard or fidelity insurance requirements;
- imposition of any restrictions, or changes in current restrictions, on the leasing of Units;
- imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the documents; or
- any provisions that expressly benefit mortgage holders, insurers, or guarantors.

Implied consent and approval may be assumed when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

14.03. Prohibited Amendments. No amendment may be adopted that would eliminate, modify, prejudice, abridge, or otherwise adversely affect any rights, benefits, privileges, or priorities granted to the Developer without the consent of the Developer. No amendment that is in conflict with the Articles, the Declaration, or the Act shall be adopted.

14.04. Recording. Any amendment shall become effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in accordance with the Act.

ARTICLE XV MISCELLANEOUS

15.01. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of gender shall be deemed to include all genders.

EXHIBIT "C"

15.02. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these By-laws or the intent of any provision hereof.

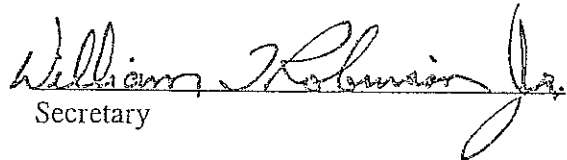
15.03. Parliamentary Rules. Robert's Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Act, the Declaration, or these By-Laws.

15.04. Conflicts. In the event of any conflict between the provisions of these By-Laws and the Declaration, the Declaration shall govern, except to the extent the Declaration is inconsistent with the Act.

15.05. Compliance. These By-Laws are set forth to comply with the requirements of the Alabama Nonprofit Corporation Act and the Alabama Uniform Condominium Act of 1991 and shall be considered an appendage to the Declaration filed prior hereto in accordance with said Acts. In case any of these By-Laws conflict with the provisions of said statutes, it is hereby agreed and accepted that the provisions of the Acts will apply.

By-Laws
Page 31

I certify that the above set out first set of By-Laws of Phoenix All Suites Hotel Condominium Owners Association, Inc., were adopted by the Board of Directors in accordance with the provisions of applicable law.


Secretary

THIS INSTRUMENT PREPARED BY:
Jule R. Herbert Jr.
Herbert & Harrell LLC
Attorneys at Law
P O Drawer 3889
Gulf Shores AL 36547
(251) 968-4764

Instrument 760731 Page 97 of 104

EXHIBIT "C"

10

PHOENIX ALL SUITES HOTEL

<u>Units:</u>	<u>Quantity:</u>	<u>Square Feet:</u>	<u>Total Square Feet:</u>
A	18	634	11,412.00
B	62	634	39,308.00
C	3	634	1,902.00
D	<u>1</u>	634	<u>634.00</u>
Total	84		53,256.00

Notes: "C" and "D" Units are handicapped units

This Exhibit "D" is given specifically to correct Exhibit "D" recorded in the Declaration of Condominium, Phoenix All Suites Hotel, a condominium, on instrument #780731 pages 99-102.

PHOENIX ALL SUITES HOTEL
PERCENTAGE OF OWNERSHIP
CALCULATIONS BY SQUARE FOOTAGE

Condominium Unit Number	Approximate Square Footage	Percentage of Ownership
1A1	634	1.145%
1B2	634	1.145%
1B3	634	1.145%
1B4	634	1.145%
1D5	634	1.145%
1A10	634	1.145%
2A1	634	1.145%
2B2	634	1.145%
2B3	634	1.145%
2B4	634	1.145%
2C5	634	1.145%
2B6	634	1.145%
2B7	634	1.145%
2B8	634	1.145%
2B9	634	1.145%
2A10	634	1.145%
3A1	634	1.145%
3B2	634	1.145%
3B3	634	1.145%
3B4	634	1.145%
3C5	634	1.145%

Exhibit "D"
Page 2 of 5

This Exhibit "D" is given specifically to correct Exhibit "D" recorded in the Declaration of Condominium, Phoenix All Suites Hotel, a condominium, on instrument #760731 pages 99-102.

3B6	634	1.145%
3B7	634	1.145%
3B8	634	1.145%
3B9	634	1.145%
3A10	634	1.145%
4A1	634	1.145%
4B2	634	1.145%
4B3	634	1.145%
4B4	634	1.145%
4C5	634	1.145%
4B6 /	634	1.145%
4B7	634	1.145%
4B8	634	1.145%
4B9	634	1.145%
4A10	634	1.145%
5A1	634	1.145%
5B2	634	1.145%
5B3	634	1.145%
5B4	634	1.145%
5B5	634	1.145%
5B6	634	1.145%
5B7	634	1.145%
5B8	634	1.145%
5B9	634	1.145%

Exhibit "D"
Page 3 of 5

This Exhibit "D" is given specifically to correct Exhibit "D" recorded in the Declaration of Condominium, Phoenix All Suites Hotel, a condominium, on instrument #760731 pages 99-102.

5A10	634	1.145%
6A1	634	1.145%
6B2	634	1.145%
6B3	634	1.145%
6B4	634	1.145%
6B5	634	1.145%
6B6	634	1.145%
6B7	634	1.145%
6B8	634	1.145%
6B9	634	1.145%
6A10	634	1.145%
7A1	634	1.145%
7B2	634	1.145%
7B3	634	1.145%
7B4	634	1.145%
7B5	634	1.145%
7B6	634	1.145%
7B7	634	1.145%
7B8	634	1.145%
7B9	634	1.145%
7A10	634	1.145%
8A1	634	1.145%
8B2	634	1.145%
8B3	634	1.145%

Exhibit "D"
Page 4 of 5

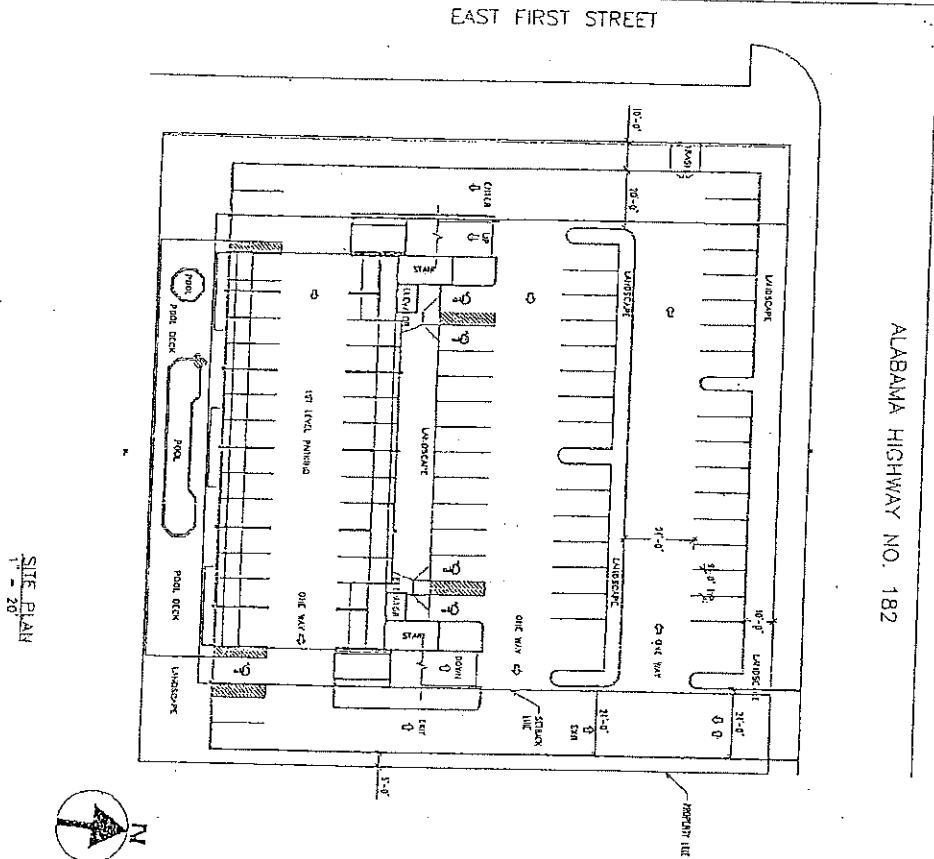
This Exhibit "D" is given specifically to correct Exhibit "D" recorded in the Declaration of Condominium, Phoenix All Suites Hotel, a condominium, on instrument #760731 pages 99-102.

8B4	634	1.145%
8B5	634	1.145%
8B6	634	1.145%
8B7	634	1.145%
8B8	634	1.145%
8B9	634	1.145%
8A10	634	1.145%
9A2	634	1.145%
9B3	634	1.145%
9B4	634	1.145%
9B5	634	1.145%
9B6	634	1.145%
9B7	634	1.145%
9B8	634	1.145%
9A9	634	1.145%
Hotel Management Unit	2,129	3.844%
Building Total	55,385	100%

Exhibit "D"
Page 5 of 5

2

f



SITE PLAN
1" = 20'

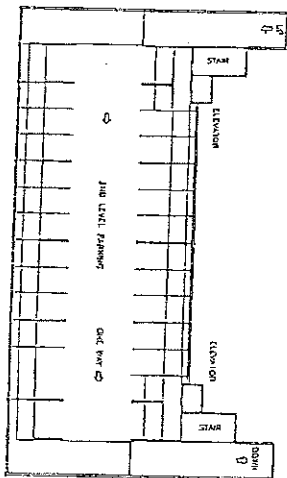


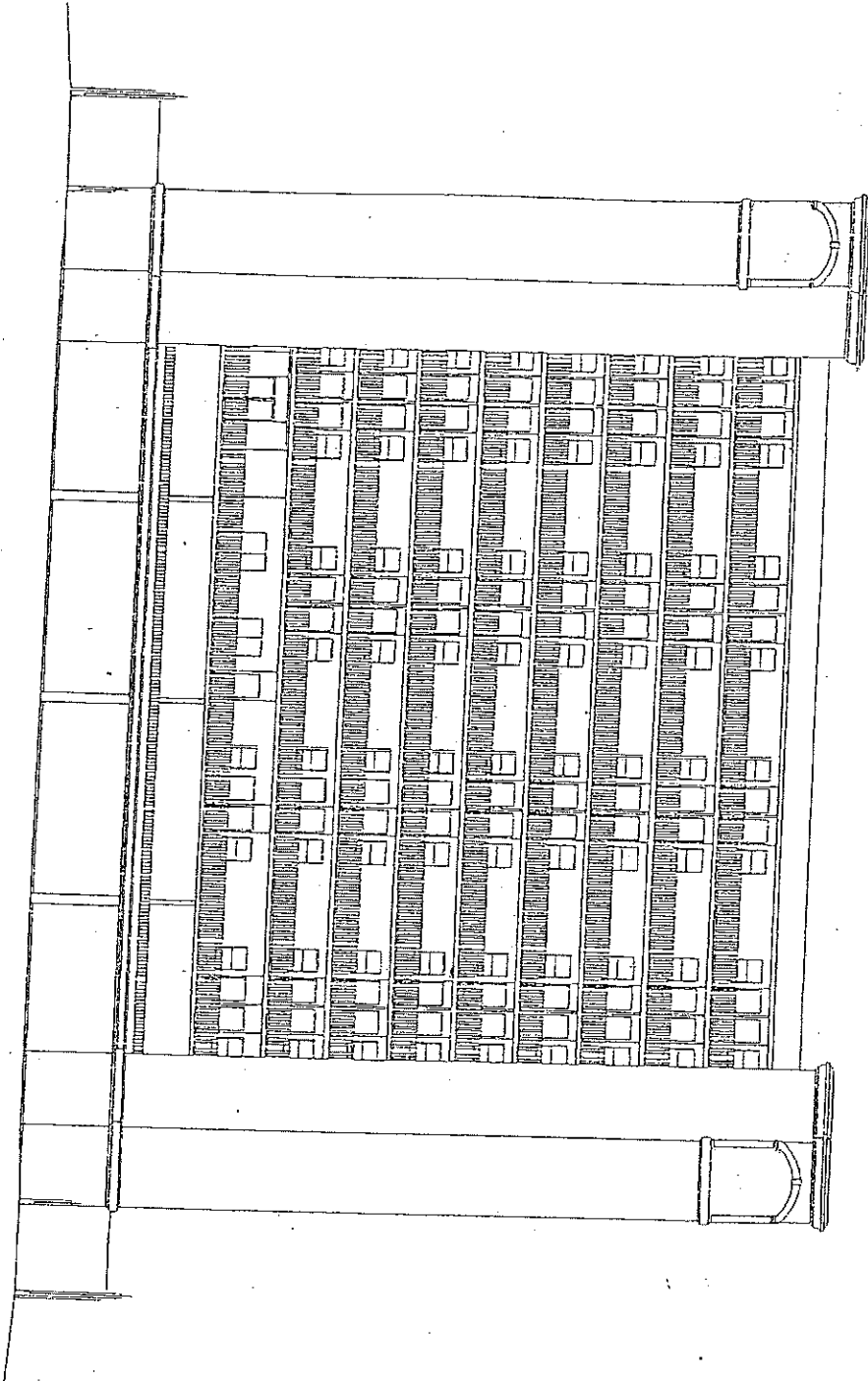
Exhibit "A"

4705315

PHOENIX
PHOENIX ALL SUITES HOTEL
SITE PLAN
Sentorik, A.I.A.
and Associates
1001 North 1st Avenue, Suite 100
Phoenix, Arizona 85004
Date: 01/15/01
Scale: 1" = 20'

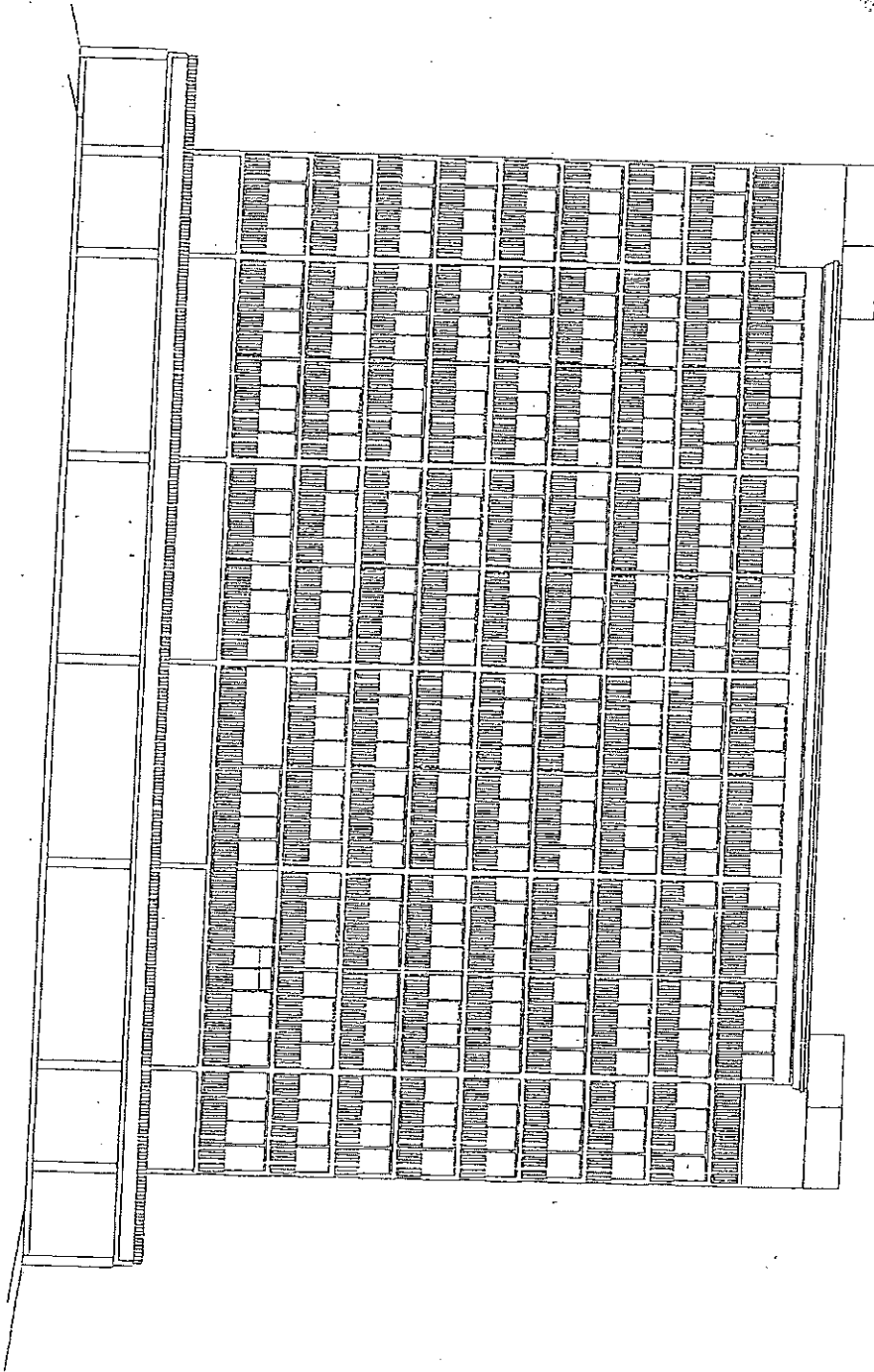
A preliminary Plat and Plans for the Condominium showing the private elements and their unit designations and the common areas are found on the immediately following pages. Upon completion of construction the Developer shall amend this Declaration to include a Plat and Plans reflecting any variation herefrom together with all statutorily required certificates.

NORTH ELEVATION



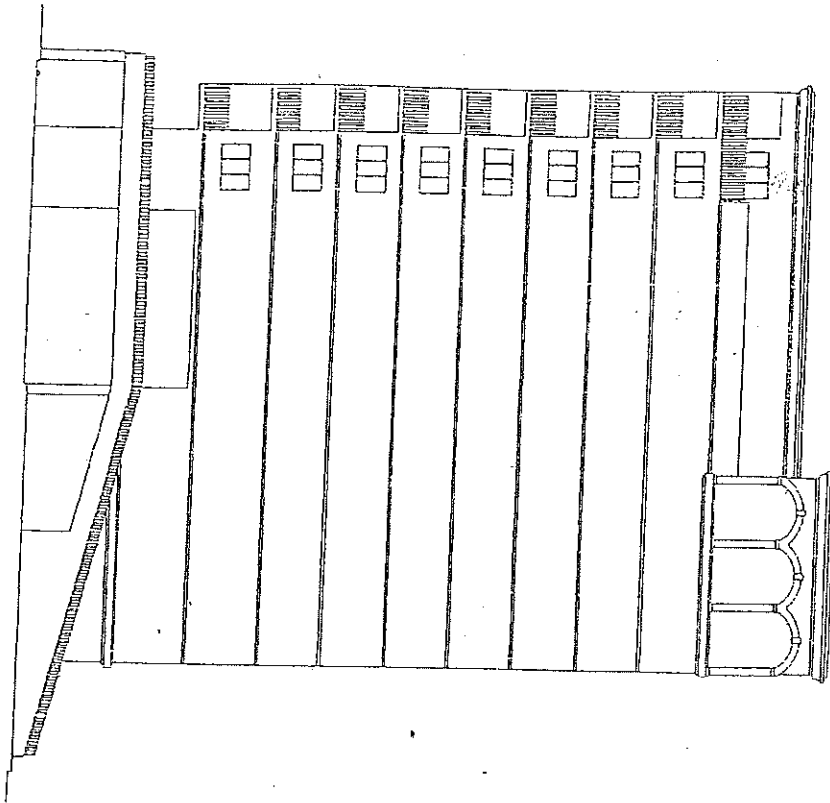
PHOENIX ALL SUITES HOTEL
North Elevation
Sentron, A.I.A.
Associates
1111 North Central Avenue
Phoenix, AZ 85004
Date: 07/17/01
Drawn: J.D.

SOUTH ELEVATION

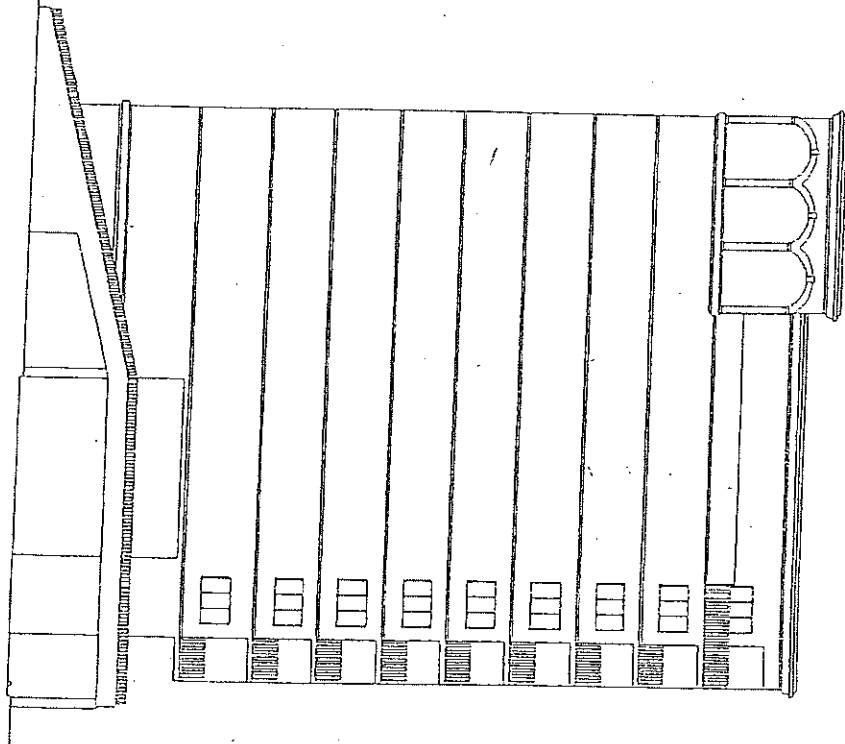


PHOENIX ALL SUITES HOTEL
SOUTH ELEVATION
Senkowitz, A.J.A.
and Associates
Architects
1000 N. 1st St.
Phoenix, AZ 85004
Tel: 602.254.1100
Fax: 602.254.1101
www.senkowitz.com

EAST ELEVATION



WEST ELEVATION



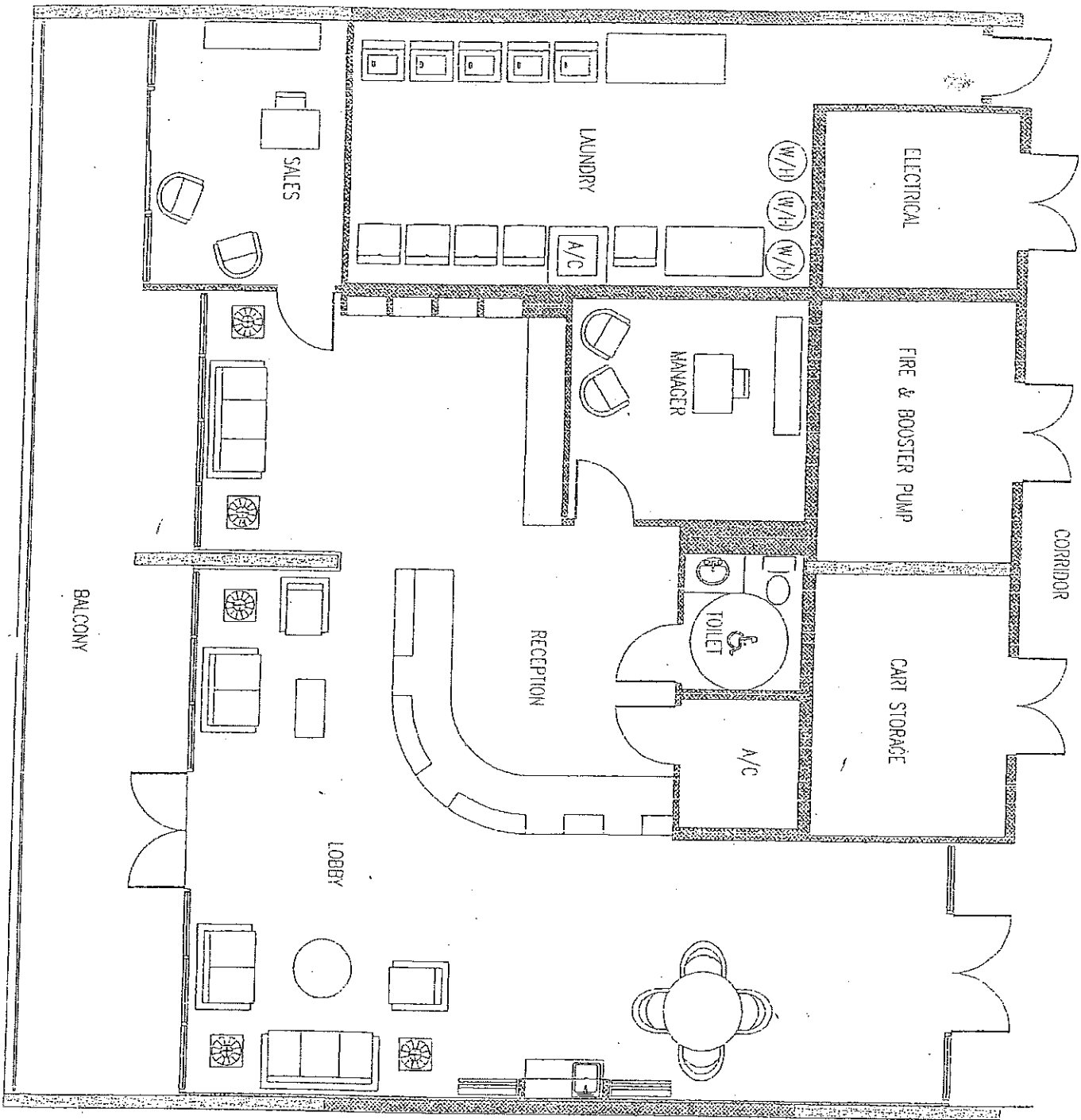
PHOENIX ALL SUITES HOTEL
 EAST & WEST ELEVATIONS
 Senlorik A.I.A.
 Associates
 101 N. 1st St.
 Phoenix, AZ 85004
 Tel: 602-258-1000
 Fax: 602-258-1001
 Email: info@senlorik.com

PHOENIX ALL SUITES HOTEL A CONDOMINIUM

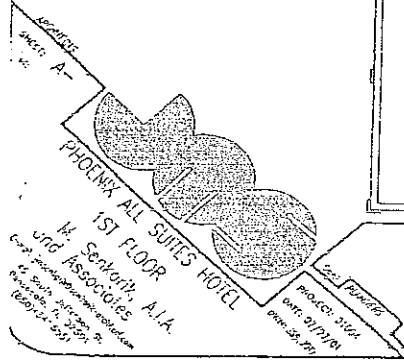
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8A1+++	8B2+	8B3+	8B4+	8B5+	8B6+	8B7+	8B8+	8B9+	8A10+++
7A1+	7B2	7B3	7B4	7B5	7B6	7B7	7B8	7B9	7A10+
6A1+	6B2	6B3	6B4	6B5	6B6	6B7	6B8	6B9	6A10+
5A1+	5B2	5B3	5B4	5B5	5B6	5B7	5B8	5B9	5A10+
4A1+	4B2	4B3	4B4	4C5	4B6	4B7	4B8	4B9	4A10+
3A1+	3B2	3B3	3B4	3C5	3B6	3B7	3B8	3B9	3A10+
2A1+	2B2	2B3	2B4	2C5	2B6	2B7	2B8	2B9	2A10+
1A1++	1B2+	1B3+	1B4+	1D5+	COMMON AREA				
									1A10++

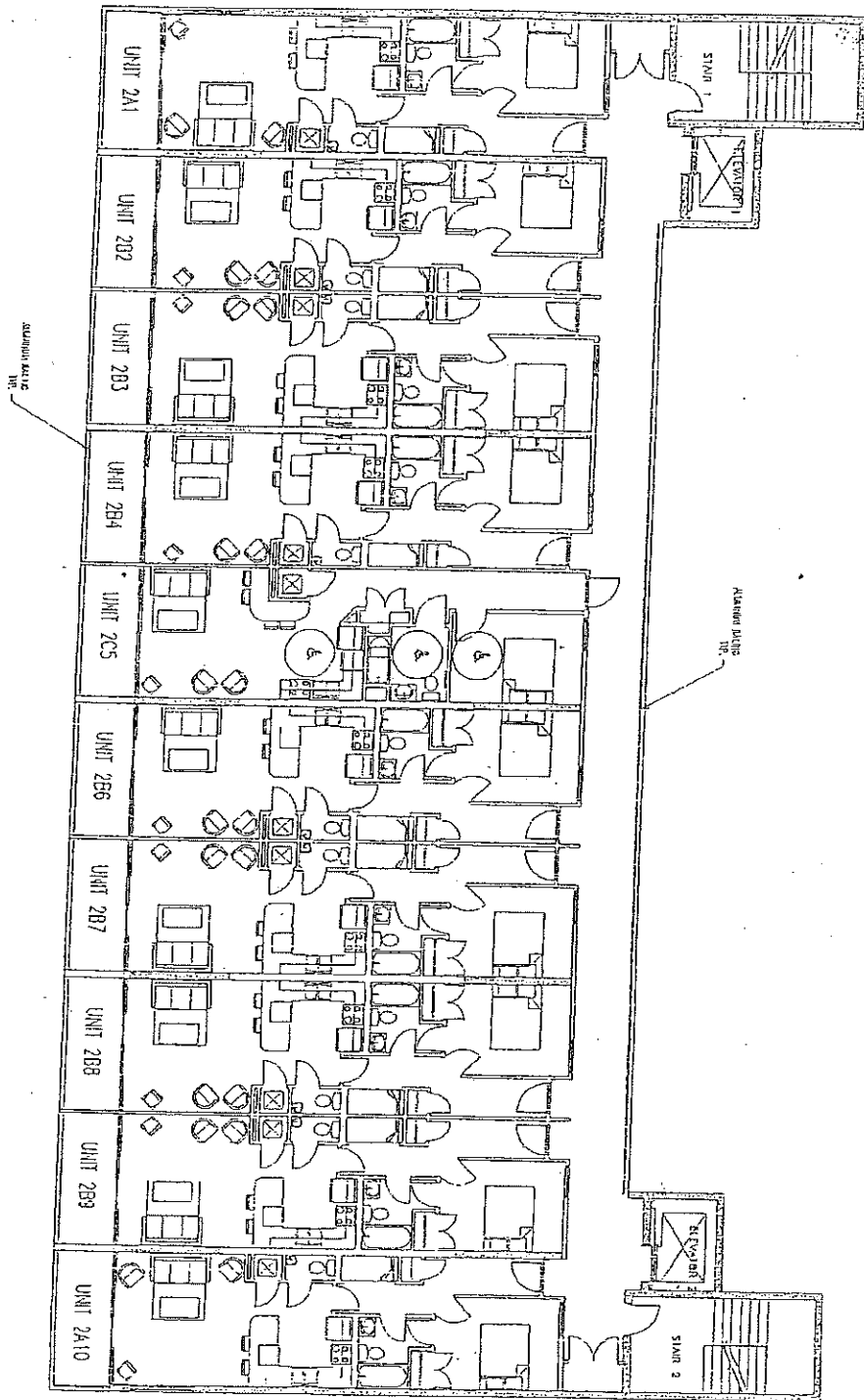
SECOND LEVEL GARAGES

GROUND LEVEL GARAGES

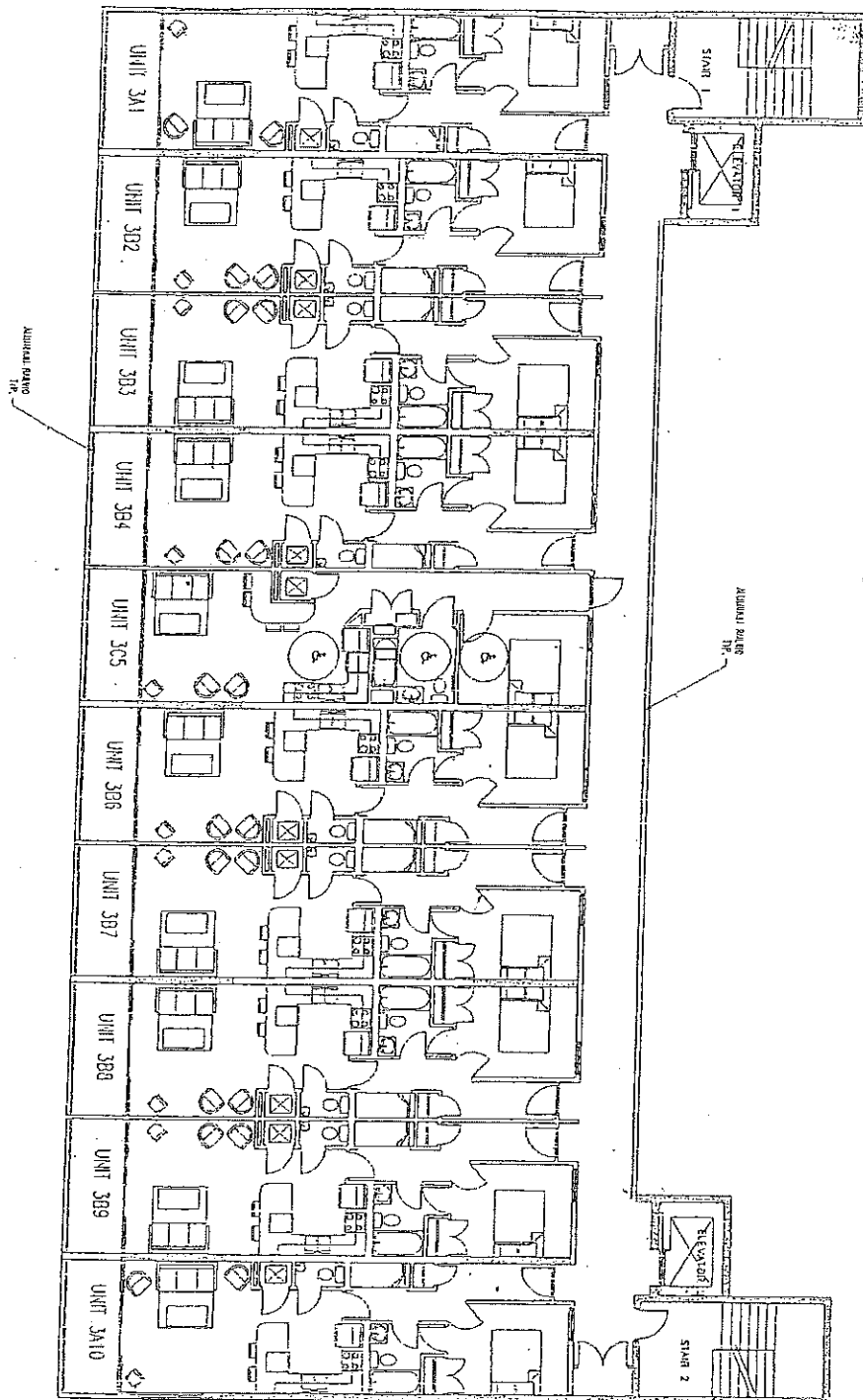


PHOENIX ALL SUITES HOTEL
COMMON AREA
Senkarik, A.L.A.
Associates
1000 N. 10th Ave, Suite 200
Phoenix, AZ 85006
Tel: 602.254.1111
Fax: 602.254.1112

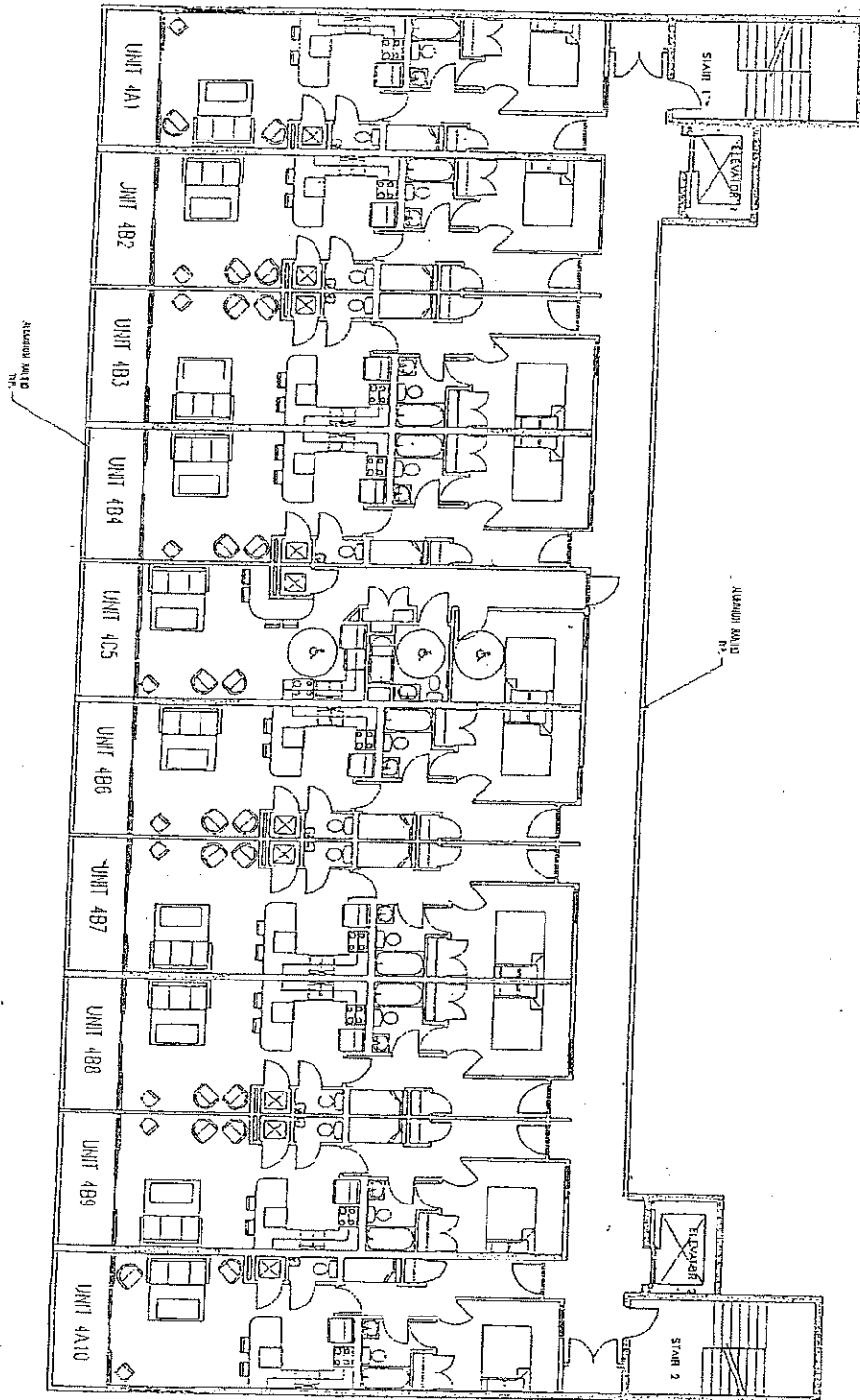




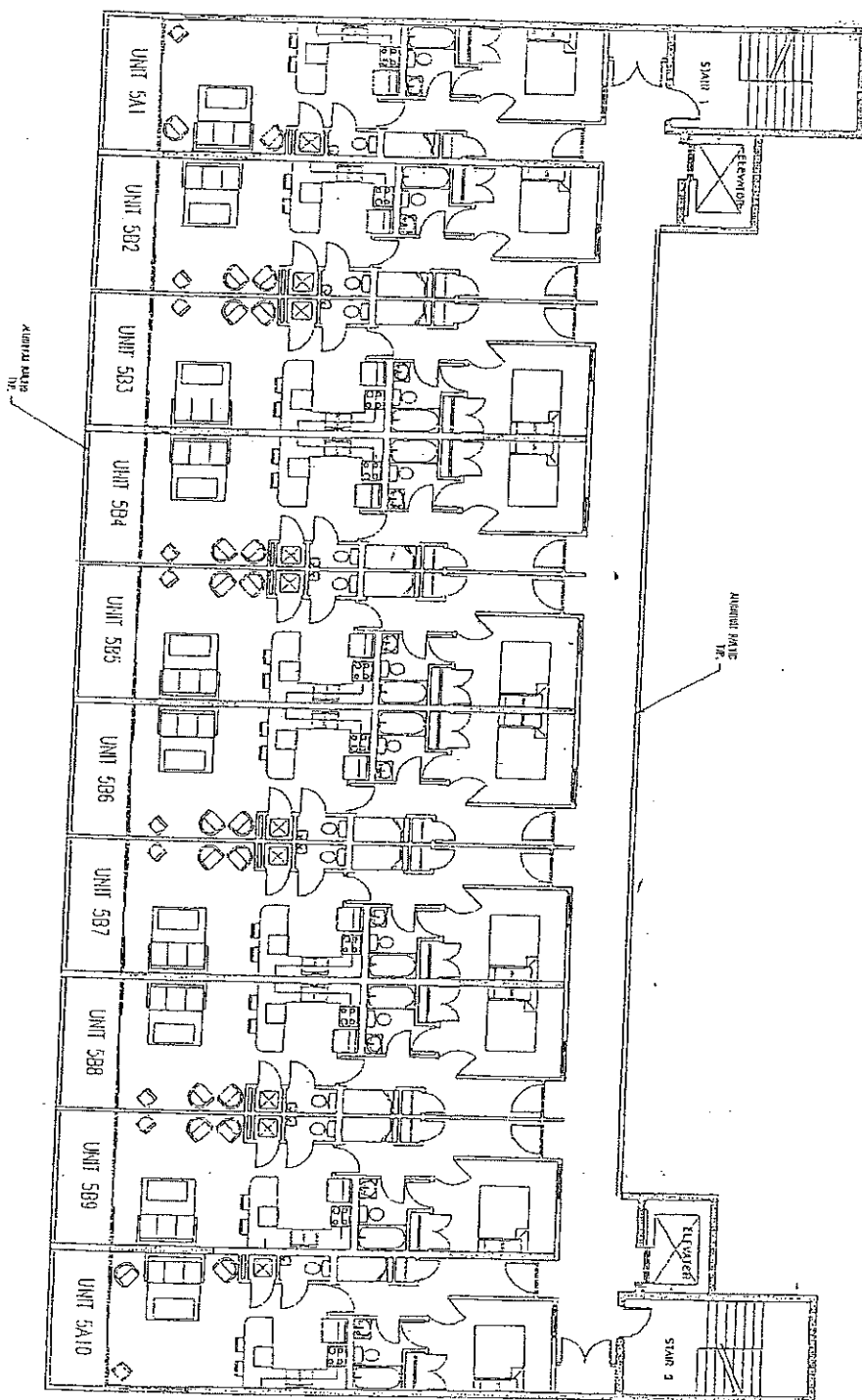
PHOENIX ALL SUITES HOTEL
 2ND FLOOR
 VINN M. SENKOVIC, A.I.A.
 and Associates
 1000 N. 1ST AVENUE, SUITE 100
 PHOENIX, AZ 85004



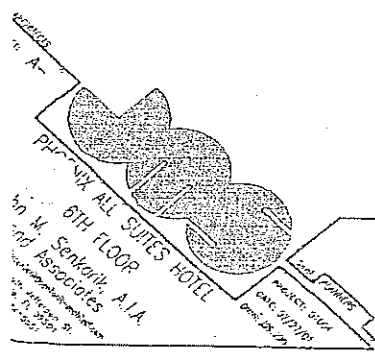
PHOENIX
 3RD FLOOR
 PHOENIX ALL SUITES HOTEL
 JOHN M. SENTER, A.J.A.
 and Associates
 1001 N. 1st Avenue
 Phoenix, AZ 85004
 602-258-1000

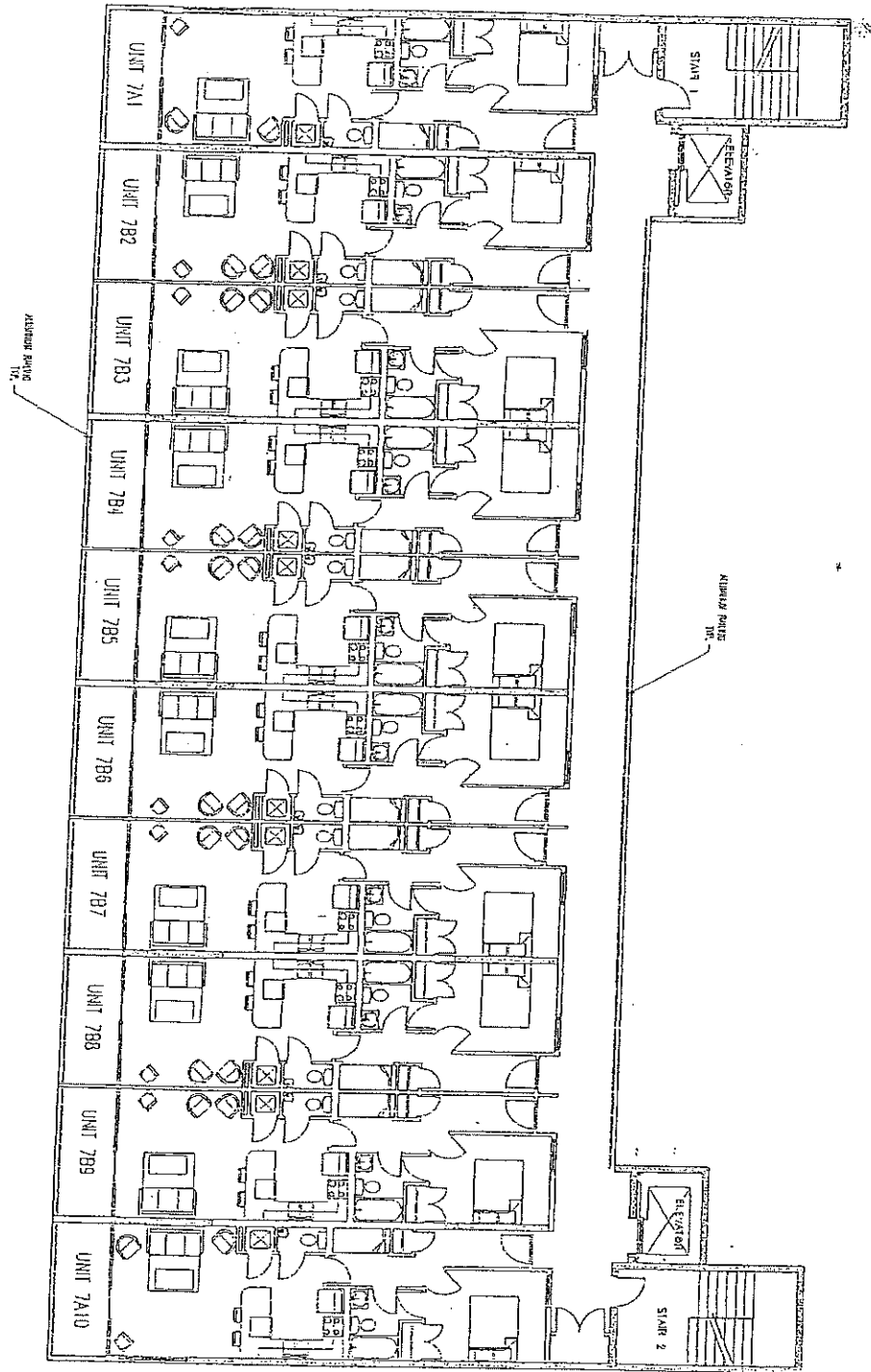


PHOENIX ALL SUITES HOTEL
4TH FLOOR
M. Senkovic, A.I.A.
and Associates
1000 N. 10th St.
Phoenix, AZ 85006
Tel: 602.254.1000
Fax: 602.254.1001



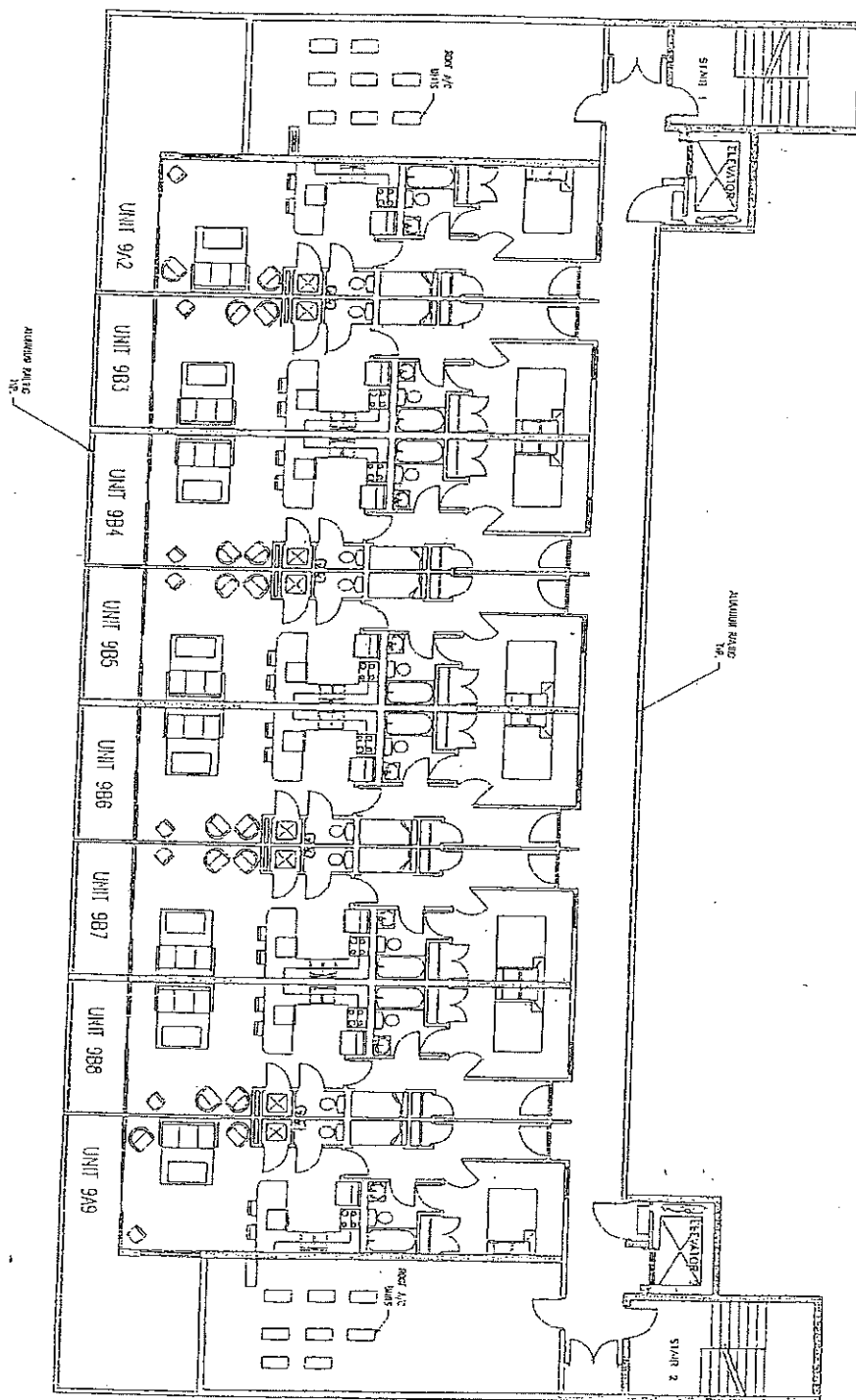
PHOENIX
ALL SUITES HOTEL
5TH FLOOR
M. Senkovich, A.J.A.
and Associates
1000 N. 1st St.
Phoenix, AZ 85004
Tel: 602-254-1234



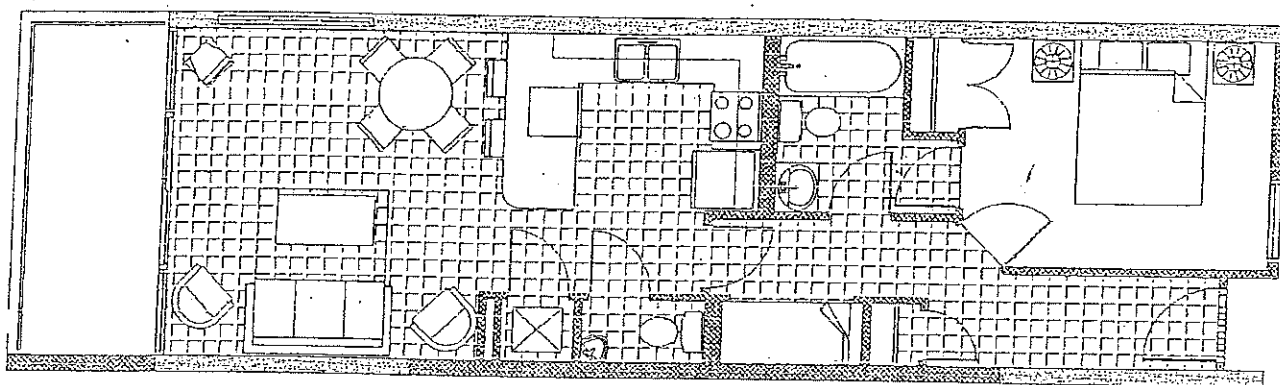


PHOENIX ALL SUITES HOTEL
7TH FLOOR
M. Senkovich, A.I.A.
and Associates
Architects
1000 N. 1st Avenue, Suite 1000
Phoenix, AZ 85004
Phone: 602-254-1000
Fax: 602-254-1001
www.msenkovich.com

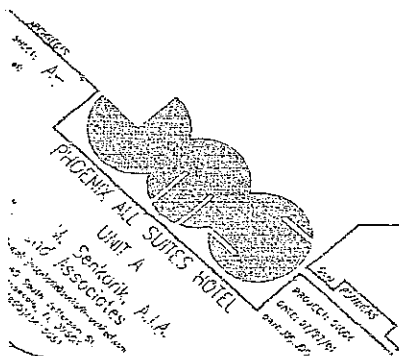


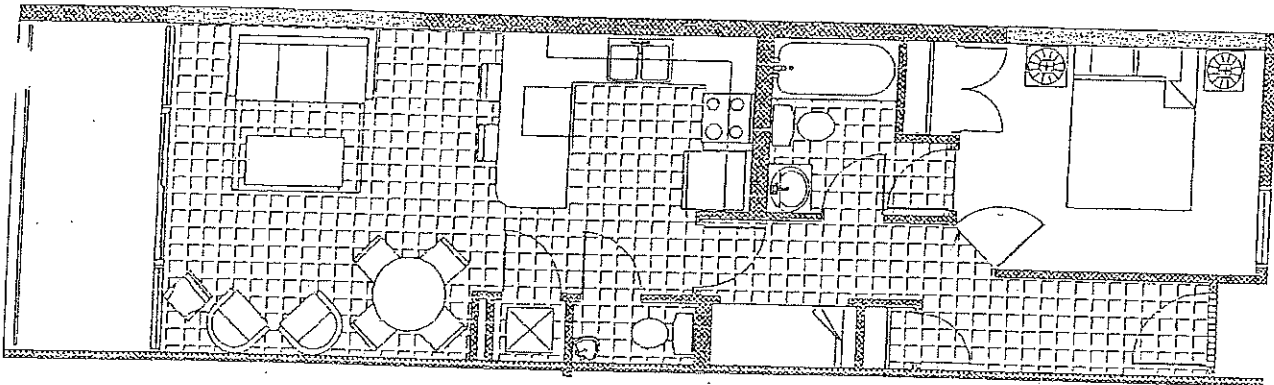


PHOTOGRAPHY
ALL SUITES HOTEL
9TH FLOOR
M. Senkovich, A.I.A.
Associates
1111 11th St.
San Francisco, CA 94103
415.398.1111

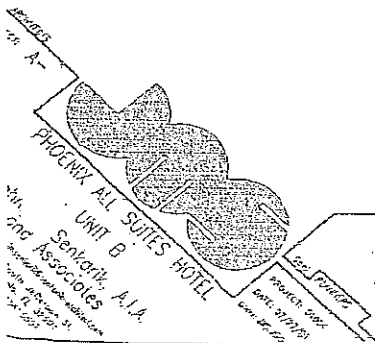


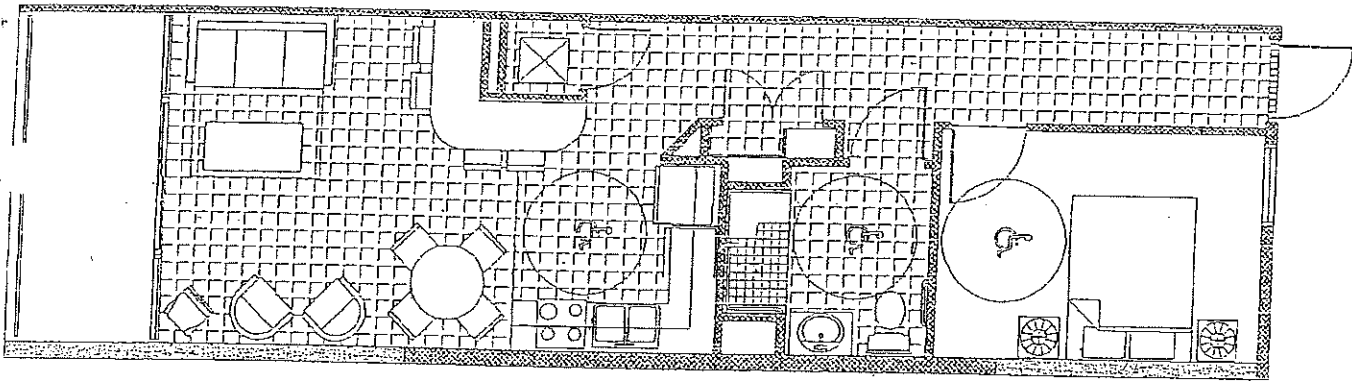
UNIT 'A'
634 +/- S.F.



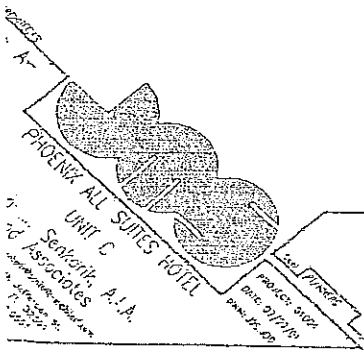


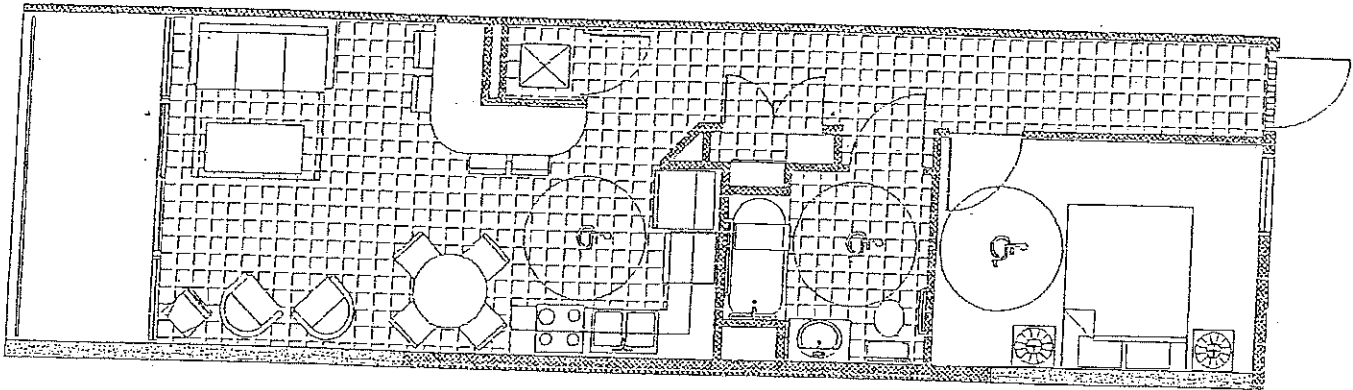
UNIT 'B'
634 +/- S.F.



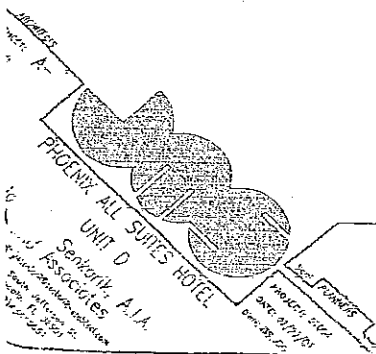


UNIT 'C'
HANDICAP
634 +/- S.F





UNIT 'D'
HANDICAP
W/ROLL-IN SHOWER
634 +/- S.F.



20

1

4

1

1

1

**MANDATORY TERMS OF EVERY
MANAGEMENT AND RENTAL AGREEMENT**

Each management and rental agreement between a Unit Owner and the Hotel Operator ("Manager") shall contain the following terms:

A. Owner hereby confers on Manager the exclusive right to rent this Unit on such terms and conditions as the Manager in its judgment deems appropriate, subject to all the terms and conditions of the Declaration of Condominium on record. The Unit shall be entirely within the control of the manager, and the Owner shall have no right to use, or control use of, such Unit, except that the Unit may be used by the Owner without the payment of Hotel rental, from time to time when not being rented to a member of the general public but such usage shall not exceed fourteen (14) days in any calendar year. Otherwise use of the Unit is limited to sleeping accommodations supplied to transient guests through the Manager as set out in the Declaration.

B. Owner agrees to reimburse Manager for all costs related to the maintenance and upkeep of the Unit.

C. Rates.

- (A) Rental rates are subject to state and local taxes. Manager shall collect the lodging tax and remit the same to the appropriate taxing authorities as required.
- (B) All rental rates and terms of rental shall be set by the Manager.
- (C) Manager shall collect for the Phoenix All Suites Hotel Owners Association five percent (5%) of the gross rental money collected at PHOENIX ALL SUITES HOTEL.

D. All furnishings, appliances, dishes, cookware and utensils, floor and wall coverings, drapes, bedding, and decor items shall be provided and maintained by the Manager at the expense of the Owner.

E. The Manager shall furnish room cleaning, linen supplies, telephone service, building and property maintenance, and maintenance of the Unit, including maintenance and replacement of furnishings. The Manager shall have exclusive control of the rental of the Unit for sleeping accommodations for transient guests. Maintenance expenses, including repairs and replacements of furnishing, of the Unit shall be deducted from rental income due the Owner, and if rental income is not sufficient during any month to cover such expenses, then the Manager may bill the Owner and shall have a lien for such amount, the same as if such

amount were a Common Expense Assessment owing to the Association.

F. The Owner shall not alter the appearance of such the Unit or do any work therein or thereto or take any steps that tend to give any personal identification to the Unit or distinguish the Unit or its furnishings, decor, etc., from any other Unit. Without limiting the foregoing, the Owner shall not store or leave any personal belongings in such Unit at any time that the Unit is not being used or occupied by the Owner and no Unit shall contain a cabinet, safe, closet, etc., that may be locked for the benefit of the Owner (this shall not prohibit the provision of locking cabinets, safes, closets, etc., in connection with which the key(s) is made available to any member of the general public who is renting the room).

G. Prior to any sale of the Unit, the Owner must provide the prospective purchaser with a copy of the Management Agreement, and the purchaser must as a condition of the purchase, ratify the Agreement, appoint the Manager as his exclusive agent for the management and rental of the Unit for the balance of the term of the Agreement.