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INDEX TO  
DECLARATION OF ESTABLISHMENT OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
COUNTRY VIEW VILLAS  
SUBDIVISION MAP RECORDED IN BOOK G-35 THROUGH G 35B  
EL DORADO COUNTY, CALIFORNIA

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DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
ESTABLISHING A PLAN OF CONDOMINIUM OWNERSHIP

ARTICLE I

INTRODUCTORY CLAUSES

This Declaration is made January 31, 1986, by Country View Villas  
- Cameron Park, a general partnership, ("Declarant").

1.1 Condominium Declaration

RECITALS

Declarant is the Owner of real property located in the unincorporated area of El Dorado County, California, described as Country View Villas subdivision map recorded on FEBRUARY 3, 1986 in Map Book G, pages 35 through 35 B, inclusive, in the office of the County Recorder of the County (the "real property"). Declarant has improved or intends to improve the real property by constructing improvements on it containing forty (40) dwelling units and recreational and other facilities in accordance with plans and specifications on file with the County of El Dorado, California. By this Declaration, Declarant intends to establish a plan of condominium ownership. The project will be consistent with the overall development plan submitted to the Veterans Administration and Federal Housing Administration.

1.2 Condominium Project Declarant

DECLARATION

Declarant declares that the real property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to the following limitations, restrictions, easements, covenants, conditions, servitudes, liens, and charges, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in

California Civil Code Sections 1350-1370 for the subdivision, improvement, protection, maintenance, and sale of condominiums within the real property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining, and protecting the value and attractiveness of the real property. All of the limitations, restrictions, easements, reservations, covenants, conditions, servitudes, liens, and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title, or interest in the real property, are for the benefit of the real property, and shall be binding on and inure to the benefit of the successors in interest of such parties. Declarant further declares that it is the express intent that this Declaration satisfy the requirements of California Civil Code Section 1355.

## ARTICLE II

### DEFINITIONS

- 2.1 Architectural Committee  
Architectural Committee means the committee of persons appointed and acting pursuant to Section 14.2.
- 2.2 Articles  
Articles means the Association's articles of incorporation and any amendments.
- 2.3 Association  
Association means the Country View Villas Homeowners Association, a California nonprofit mutual benefit corporation, and its successors and assigns.
- 2.4 Association Rules  
Association Rules means the rules and regulations regulating the use and enjoyment of the Common Area adopted by the Board from time to time.
- 2.5 Board of Directors  
Board of Directors or Board means the Board of Directors of the Association.
- 2.6 Bylaws  
Bylaws means the Association's Bylaws and any amendments.

2.7 Common Area

Common Area means the entire Project except all Units as defined in this Declaration and as shown on the Condominium Plan.

2.8 Common Expenses

Common Expenses shall mean and include the actual and estimated expenses of operating the Condominium Property and any reasonable reserve for such purposes.

2.9 Condominium

Condominium means an estate in real property, as defined in California Civil Code Section 783, consisting of an undivided interest as a tenant in common in all or any portion of the Common Area, together with a separate fee interest in a Unit and any other separate interests in the real property as are described in this Declaration, in the Condominium Plan, or in the deed conveying the Condominium.

2.10 Condominium Plan

Condominium Plan means a condominium plan recorded pursuant to California Civil Code Section 1351 respecting the Project, and any amendments to the plan.

2.11 County

County means the County of El Dorado, California, the County in which the Project is located.

2.12 Declarant

Declarant means Country View Villas - Cameron Park, a general partnership, and its successors and assigns, if such successors and assigns are assigned the rights of Declarant pursuant to Section 4.23 or if such successor or assign is a mortgagee acquiring Declarant's interest in the Project by foreclosure or by deed in lieu of foreclosure.

2.13 Declaration

Declaration means this Declaration of Covenants, Conditions, and Restrictions and its amendments, modifications, or supplements.

2.14 Member

Member means every person or entity holding a

membership in the Association.

2.15 Mortgage; Mortgagee

Mortgage means a mortgage or deed of trust encumbering a Condominium or other portion of the Project. A Mortgagee shall include the beneficiary under a deed of trust and any guarantor or insurer of a Mortgage. An "institutional" Mortgagee is a Mortgagee that is a bank or savings and loan association or Mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property or investing in such loans, or any insurance company or any federal or state agency or instrumentality, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. A "first" Mortgage, or "first" Mortgagee is one having priority as to all other Mortgages or holders of Mortgages encumbering the same Condominium or other portions of the Project.

2.16 Owner; Ownership

Owner means each person or entity holding a record ownership interest in a Condominium, including Declarant, and contract seller under recorded contracts of sale. Owner shall also mean member of the Association, and Ownership shall include membership in the Association. Owner shall not include persons or entities who hold an interest in a Condominium merely as security for the performance of an obligation.

2.17 Project; Development

Project or Development means the Property and the improvements on the Property.

2.18 Property

Property means the real property described in the Recitals.

2.19 Deleted

2.20 Restricted Common Area

Restricted Common Area means that portion of the Common Area subject to exclusive easements in favor of Owners for the uses and purposes described in Sections 3.4-3.6. Each such exclusive easement shall be a part of the Owner's condominium grant but shall not be deemed to be a component of the Owner's Unit. The boundaries or location of and limitations upon each such exclusive easement are described in Sections 3.4-3.6. The

Association acting on behalf of all Owners shall have the power and authority to grant and convey to Owners in the names of all of the Owners as their attorney-in-fact (or in the name of the Association as to any property to which the Association holds title) exclusive easements over portions of the Common Area for any purpose not inconsistent with the rights of other Owners under this Declaration. This grant shall be made pursuant to and in accordance with Section 3.9.

2.21 Subdivision Map

Subdivision Map means the recorded final subdivision or parcel map for the Tract No. or parcel designation described in the Recitals.

2.22 Unit

Unit means the elements of a Condominium that are not owned in common with the other Owners of Condominiums in the Project, such Units and their respective boundaries being shown and particularly described in the Condominium Plan, deeds conveying Condominiums, and this Declaration. Unit does not include other interests in real property that are less than estates in real property, such as exclusive or nonexclusive easements. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the original plan, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Condominium Plan, regardless of minor variance between boundaries shown on the Condominium Plan or in the deed and those of the building and regardless of settling or lateral movement of the building. Whenever reference to a Unit is made in this Declaration, in the Condominium Plan, in any deed, or elsewhere, it shall be assumed that such reference is made to the Unit as a whole, including each of its component elements.

2.23 VA

VA shall mean and refer to the Veterans Administration.

**ARTICLE III**  
**CLAUSES DESCRIBING COMMON INTERESTS,  
PROPERTY RIGHTS, RIGHTS OF  
ENJOYMENT, AND EASEMENTS**

3.1 Elements of Condominium

Ownership of each Condominium within the Project shall include a Unit; an undivided interest in the Common Area, (or portion of it if additional real property is annexed to this Declaration), which is set forth in Exhibit "B", and shall be specified in the deed from Declarant to each Owner and which undivided interest cannot be altered or changed as long as the prohibition against severability of component interests in a Condominium remains in effect as provided in this Declaration; a membership in the Association; and any exclusive or nonexclusive easement or easements appurtenant to such Condominium over the Common Area as described in this Declaration, the Condominium Plan and the deed to the Condominium.

**NONEXCLUSIVE EASEMENTS**

3.2 Owners' Nonexclusive Easements; Association Rights

Every Owner has a nonexclusive easement of use, enjoyment, ingress, egress, and support in, to, and throughout the Common Area and any improvements or facilities on these areas.

Each such nonexclusive easement shall be appurtenant to the respective Condominium and shall pass with the title to the Condominium. Nonexclusive easements shall be subject to the following rights and restrictions:

- (i) The right of the Association to limit the number of guests, and to adopt and to enforce the Association Rules.
- (ii) Subject to the provisions of Section 13.4, the right of the Association to borrow money to improve, repair, or maintain the Common Area.
- (iii) The right of the Association to assign, rent, license or otherwise designate and control use of any unassigned parking and storage spaces within, and any recreational facility situated upon, the Common Area and to charge reasonable fees for admission and use.
- (iv) The right of the Association to suspend the right of an Owner to use any recreational or

other facility in the Common Area as provided in Section 5.6 of this Declaration.

- (v) The right of the Association to adopt and enforce Association Rules concerning the control and use of any private streets, roadways and paving areas located upon or across the Common Area, including the right to regulate the kind of vehicles and their speed and the parking of the vehicles upon such private streets and roadways. Declarant or the Association is authorized to delegate to a municipality or other governmental entity or to contract with any private security patrol company to exercise its authorized rights in connection with such private streets, roadways, and parking areas.

### 3.3

#### Entry or Use Rights

Each Condominium and its Unit or the Common Area, as the case may be, shall be subject to the following rights of entry and use:

- (i) The right of Declarant or its designees to enter upon any portion of the Project to construct the improvements to the Property and to make repairs and remedy construction defects, provided that such entry shall not interfere with the use or occupancy of any occupied Unit unless authorized by its Owner, which authorization shall not be unreasonably withheld.
- (ii) The right of the Association, or its agents, to enter any Unit to cure any violation or breach of this Declaration or the Bylaws or the Association Rules, provided that at least thirty (30) days prior written notice of such violation or breach (except in cases of emergency) has been given to the Owner, and provided that, within the thirty (30) day period, such Owner had not acted to cure such violation or breach. The Association shall be entitled to levy a special assessment for its costs of effecting such cure against the Owner in accordance with the procedures in Section 7.6. The rights of entry and cure shall be immediate in case of an emergency originating upon or threatening any Unit, whether or not its Owner is present.
- (iii) The right of the Association, or its agents, to enter any of the Units to perform its obligations and duties under this

Declaration, including obligations or duties with respect to: construction, maintenance, or repair for the benefit of the Common Area or the Owners in common; watering, planting, cutting, removing, and otherwise caring for the landscaping upon the Common Area; and cleaning, repairing, replacing and otherwise maintaining or causing to be maintained septic tanks (if any) and underground utility lines serving each Unit. The rights shall be immediate in case of an emergency originating upon or threatening any unit, whether or not its Owner is present.

- (iv) The right of any Owner, or Owner's representatives, to enter the Unit of any other Owner for purposes of performing installations, alterations or repairs to mechanical or electrical services, including installation of television antennae and related cables, which are reasonably necessary for the use and enjoyment of his Unit, provided requests for entry are made in advance and that entry is at a time convenient to the Owner whose Unit is being entered upon. In case of emergency, the right of entry shall be immediate.
- (v) Entry into a Living Unit and Garage for emergency purposes may be immediate; provided, however, such entry shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party. Entry into a Living Unit and Garage for other than emergency repairs shall be made only after three (3) days notice has been given to the Owner and shall be made with as little inconvenience as possible to the Owner and any damage caused thereby shall be repaired by the entering party.

#### EXCLUSIVE EASEMENTS; RESTRICTED COMMON AREA

#### 3.4 Parking Spaces

Each Owner shall have an exclusive easement for parking purposes over that portion of the Common Area designated on the condominium plan. Each Owner having such an exclusive easement for parking purposes shall keep his or her parking space in a neat, clean, attractive, and safe condition at all times.

3.5 Deleted

3.6 Patios or Balconies

Each owner shall have an exclusive easement to use and enjoy that portion of the Common Area adjacent to his or her Unit designated on the Condominium Plan attached to this Declaration as a Patio Area, and bearing his or her Unit number. Each Owner shall keep his or her Patio Area in a neat, clean, attractive, and safe condition at all times.

#### MINOR ENCROACHMENTS

3.7 Minor Encroachments

If any portion of the Common Area encroaches on any Unit or if any portion of a Unit encroaches on the Common Area, regardless of the cause, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements. If any structure containing a Unit is partially or totally destroyed and then rebuilt and any encroachment on the Common Area results, a valid easement exists for such encroachment and for the maintenance of it as long as it remains, and all Units and the Common Area are made subject to such easements.

#### OWNER AND THIRD-PARTY EASEMENTS GRANTED BY DECLARANT OR BY ASSOCIATION

3.8 Power To Grant Easements

Declarant or the Association shall have the power to grant and convey in the name of all the Owners as their attorney-in-fact (or in the name of the Association as to any property to which the Association holds title) to any Owner or other party easements and rights-of-way in, on, over, or under the Common Area (for the purpose of establishing Restricted Common Area in favor of an Owner or) for the purpose of constructing, erecting, operating or maintaining: lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes; public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes; and any similar public or quasi-public improvements or facilities. Each purchaser, in accepting a deed to a Condominium, expressly consents to such easements and rights of way and authorizes and appoints the Association and Declarant (as long as Declarant owns one or more Condominiums) as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easements or

rights of way. However, no such easement can be granted if it would permanently interfere with the use, occupancy, or enjoyment by any Owner of his Unit or the recreational facilities of the Project, unless approved by the vote or written consent of the holders of not less than seventy-five (75%) of the voting rights of each class of members and their first Mortgagees.

3.9 Emergency Access and Right-of-Way

The Property, each Owner, and the Association are declared to be subject to the emergency vehicle access easement and public right-of-way easement, if any, as shown upon and described by the Subdivision Map.

OWNER'S RIGHT TO DELEGATE USE AND ENJOYMENT

3.10 Restrictions on Delegation of Use

Any Owner may delegate his rights of use and enjoyment of the Project, to the members of his family, his guests, tenants, employees, and invitees, and to such other persons as may be permitted by the Bylaws and the Association Rules, subject however, to this Declaration. However, if an Owner has sold his Condominium to a contract purchaser or has leased or rented it, the Owner, members of the Owner's family, guests, tenants, employees, and invitees shall not be entitled to use and enjoy any of such rights in the Project, while the Owner's Unit is occupied by the contract purchaser or tenant. Instead, the contract purchaser or tenant, while occupying such Unit, shall be entitled to use and enjoy such rights, including the recreational facilities, and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenant were an Owner during the period of his occupancy. Each Owner shall notify the secretary of the Association of the names of any contract purchasers or tenants of such Owner's Condominium. Each Owner, contract purchaser, or tenant also shall notify the Secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights of use and enjoyment and the relationship that each such persons bears to the Owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of assessments or performance of the covenants, conditions and restrictions contained in this Declaration. Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract purchaser of a Condominium shall require compliance by the tenant or contract purchaser

with all of the covenants, conditions and restrictions contained in this Declaration, which provision shall be for the express benefit of the Association and each Owner. The Association and each Owner shall have a right of action directly against any tenant or contract purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.

#### ARTICLE IV

#### COVENANTS AND USE RESTRICTIONS

##### 4.1 Residential Use

Units shall be used for residential purposes only, and no part of the Project shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such nonresidential purpose. However, for a period of three (3) years from the date of recordation of the Declaration, units owned by Declarant may be used by Declarant or its designees as models, sales offices, and construction offices for the purpose of developing, improving, and selling Condominiums in the Project.

##### 4.2 Leasing

An Owner is permitted to lease or rent Owner's Condominium. However, any lease or rental agreement shall be in writing and any tenant shall abide by and be subject to all terms and provisions of this Declaration, the Articles, the Bylaws, and the Association Rules; and any lease or rental agreement shall comply with Section 3.11 and shall specify that failure to abide by such provisions shall be a default under the lease or rental agreement. No condominium shall be leased or rented for less than a 30-day period.

##### 4.3 Owner Responsibility for Maintenance

Each Owner of a Condominium shall be responsible for maintaining his Unit, including the equipment and fixtures in the Unit and the interior walls, ceilings, windows and doors of the owned Unit in a clean, sanitary, workable, and attractive condition. However, each Owner has complete discretion as to the choice of furniture, furnishings, and interior decorating, except that windows can be covered only by drapes, shutters, or shades and cannot be painted or covered by foil,

cardboard, or other similar materials. Each Owner also shall be responsible for repair, replacement, and cleaning of the windows and glass of his Unit, both exterior and interior.

4.4 Oil Drilling

No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on or in the Project; and no oil wells, tanks tunnels or mineral excavations or shafts shall be permitted on the surface of the Project or within five hundred (500) feet below the surface of the Project. No derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, maintained, or permitted on the Project.

4.5 Offensive Conduct; Nuisance

No noxious or offensive activities, including, but not limited to, repair of automobiles or other motorized vehicles, shall be conducted within the Project. Nothing shall be done on or within the Project that may be or may become an annoyance or nuisance to the residents of the Project, or that in any way interferes with the quiet enjoyment of occupants of Units. Unless otherwise permitted by the Association Rules, no Owner shall serve food or beverages, cook, barbecue, or engage in similar activities except within such Owner's Unit (or within the area of any exclusive easement for backyards or patios).

4.6 Parking Restrictions; Use of Garages

Unless otherwise permitted by the Association, no automobile shall be parked or left within the Project other than within a garage, carport, or assigned or appurtenant parking stall or space or in any designated guest parking area or space. No boat, trailer, recreational vehicle, camper, truck, or commercial vehicle shall be parked or left within the Project other than in a parking area designated by the Association for the parking and storage of such vehicles. However, parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Association Rules. Any garages and carports shall be used for parking automobiles only and shall not be converted for living or recreational activities. Any garage doors shall remain closed at all times except when being used to enter or exit.

4.7 Signs

No sign of any kind shall be displayed to the public

view on or from any Unit or within the Common Area without the approval of the Association, except such signs as may be used by the Declarant or its designees for the purpose of developing, selling, and improving Condominiums within the Project for a period of time not to exceed (i) the date on which the last Condominium is sold by Declarant or three (3) years from the date of recordation of this Declaration, whichever is sooner; or (ii) if a Supplement to the Declaration is recorded, the date on which the last annexed condominium is sold by Declarant or three (3) years from the date of recordation of the Supplement, whichever is sooner. In exercising its rights under this provision, Declarant shall not unreasonably interfere with the use of the Common Area by any Owner. However, one sign of customary and reasonable dimensions advertising a Condominium for sale or for rent may be placed within that portion of the Common Area as designated by the Association for such purpose, or elsewhere to the extent required by law, and its location and design shall be subject to approval by the Association.

4.8 Antennae and Clotheslines

No television or radio poles, antennae, flag poles, clotheslines, or other external fixtures other than those originally installed by Declarant or approved by the Association shall be constructed, erected, or maintained on or within the Common Area or any structures on it. No wiring, insulation, air-conditioning, or other machinery or equipment, other than that originally installed by Declarant or approved by the Association, shall be constructed, erected, or maintained on or within the Common Area, including any structures on it. Each Owner shall have the right to maintain television or radio antennae within completely enclosed portions of his or her Unit. The location of common antennae or connection facilities for any cable television serving more than one Unit shall be as designated by the Association or the Architectural Committee, if any, and each Unit and its Owner shall be subject to the right of other Owners or the Association to install, use, and maintain such common antennae or facilities.

4.9 Fences and Screens

No fences, awnings, ornamental screens, screen doors, sunshades, or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Project except those that are installed in accordance with the original construction of the development, and their replacements, or as are authorized and approved by the Association or the

Architectural Committee, if any.

4.10 Gas or Liquid Storage

No tank for the storage of gas or liquid shall be installed on or in the Project unless such installation is done by Declarant or has been approved by the Association or the Architectural Committee, if any.

4.11 Diseased Plants

No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown, or maintained within the Project.

4.12 Animals

No animals, reptiles, rodents, birds, fish, livestock, or poultry shall be kept in any Unit or elsewhere within the Project except that domestic dogs and cats, fish, and birds inside bird cages may be kept as household pets within any Unit, if they are not kept, bred, or raised for commercial purposes or in unreasonable quantities as determined by the Board. The Association can prohibit the keeping of any animal that, in the sole and exclusive opinion of the Board, constitutes a nuisance to any other Owner. Each person bringing or keeping a pet upon the Project shall be liable to other Owners, their family members, guests, invitees, tenants, and contract purchasers, and their respective family members, guests, and invitees for any damage to persons or property proximately caused by any pet brought upon or kept upon the Project by that person or by members of his family, his guests, or invitees.

4.13 Use of Vehicles

No boat, truck, trailer, van, camper, recreational vehicle, or tent shall be used as a living area while located within the Project. No truck, trailer, van, camper, or recreational vehicle may be stored within the Project by any Owner unless it is that Owner's principal means of transportation. However, trailers or temporary structures for use incidental to the initial construction of the Project or the initial sales of Condominiums may be maintained within the Project, provided that such use does not unreasonably interfere with any Owner's use of the Common Area. Such trailers or structures shall be promptly removed on completion of all initial construction and all initial sales.

4.14 Trash Disposal

Trash, garbage, or other waste shall be kept only in sanitary containers. No Owner shall permit or cause any trash or refuse to be kept within any portion of the Project other than in customary receptacles. Except on the scheduled day for trash pickup, these receptacles shall be located only in places specifically designated for such purpose.

4.15 Outside Laundering and Drying

No exterior clothesline shall be erected or maintained, and there shall be no exterior drying or laundering of clothes on balconies, patios, porches, or other outside areas.

4.16 Common Area Trees

No Owner shall cut, trim, prune, remove, replace, or otherwise alter or affect the appearance or location of any living tree, plant, or other vegetation located in any portion of the Common Area without the prior written consent of the Association. Should any Owner fail to comply with the restriction imposed by this provision, the Association may recover from such Owner the cost of restoring or replacing any such vegetation.

4.17 Structural Alterations

No structural alterations to the interior of or Common Area surrounding any Unit shall be made and no plumbing or electrical work within any bearing or common walls shall be performed by any Owner without the prior written consent of the Association or the Architectural Committee, if any.

4.18 Exterior Alterations

No Owner shall at his expense or otherwise make any alterations or modifications to the exterior of the buildings, fences, railings, or walls situated within the Project without the prior written consent of the Association or the Architectural Committee, if any.

4.19 Compliance With Law and Association's Insurance Requirements

Nothing shall be done or kept in any Unit or in the Common Area that might increase the rate of, or cause the cancellation of, insurance for the Project, or any portion of the Project, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his Unit that violates any law, ordinance, statute, rule, or regulation of any

local, county, state, or federal body. No Owner shall allow his furniture, furnishings, or other personalty to remain within any portion of the Common Area (except restricted Common Area) except as may otherwise be permitted by the Association.

4.20 Indemnification

Each Owner shall be liable to the remaining Owners for any damage to the Common Area or to Association-owned property that may be sustained by reason of the negligence of that Owner, that Owner's family members, contract purchasers, tenants, guests, or invitees, but only to the extent that any such damage is not covered by casualty insurance in favor of the Association. Each Owner, by acceptance of his or her deed, agrees, personally and for family members, contract purchasers, tenants, guests, and invitees, to indemnify each and every other Owner, and to hold him or her harmless from, and to defend him or her against, any claim of any person for personal injury or property damage occurring within the Unit of that particular Owner, including Restricted Common Area, if any, except to the extent that (i) such injury or damage is covered by liability insurance in favor of the Association or other Owner or (ii) the injury or damage occurred by reason of the willful or negligent act or omission of the Association or other Owner or other person temporarily visiting the Owner's Unit.

4.21 Owner's Obligation for Segregated Real Property Taxes

To the extent allowed by law, all Condominiums, including their prorata undivided interest in the Common Area and the membership of an Owner in the Association, shall be separately assessed and taxed so that all taxes, assessments, and charges that may become liens prior to first mortgages under local law shall relate only to the individual Condominiums and not to the Project as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by the County Assessor of the County against his or her Condominium and against his or her personal property.

4.22 Owner's Obligation for Unsegregated Real Property Taxes

Until such time as real property taxes have been segregated by the County Assessor of the County, they shall be paid proportionately by the Owners. The proportionate share of the taxes for a particular Condominium shall be determined by dividing the initial sale price or offered initial sale price of the Condominium by the total initial sales prices and offered initial sales prices of all Condominiums within

the Project. (The term "offered initial sale price" means the price at which an unsold Condominium is then being offered for sale by Declarant.) If, and to the extent that, taxes are not paid by any Owner of a Condominium and are allowed to become delinquent, they shall be collected from the delinquent Owner by the Association.

4.23 Savings Clause: Future Construction

Nothing in this Declaration shall limit the right of Declarant to complete construction of improvements to the Common Area and to Condominiums owned by Declarant or to alter them or to construct additional improvements as Declarant deems advisable before completion and sale of the entire Project. The rights of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of Declarant's interest in the development, as developer, by an express assignment incorporated in a recorded deed that transfers any such interest to a successor or to a Mortgagee acquiring Declarant's interest in the Project by foreclosure or by deed in lieu of foreclosure.

4.24 Management Body Authorization To Seek Legal Remedies for Owner Noncompliance

The failure of any Owner to comply with any provision of this Declaration, the Articles, Bylaws, or the Association Rules, shall give rise to a cause of action in the Association and any aggrieved Owner for the recovery of damages or for injunctive relief, or both.

**ARTICLE V**

**PROVISIONS PROMULGATING ASSOCIATION ACTION**

**FORMATION**

5.1 Incorporation

The Association is a nonprofit mutual benefit corporation formed under the laws of the State of California. At the recording of the first Condominium sale to an Owner, the Association shall be charged with the duties and invested with the powers set forth in the Articles, the Bylaws, and this Declaration.

5.2 Action Through Designated Officers

Except as to matters requiring the approval of Owners as set forth in this Declaration, the Articles, or the

Bylaws, the affairs of the Association, including the exercise of its powers and duties, shall be conducted by the Board, such officers as the Board may elect or appoint, or such persons or such entities with delegated authority under the provisions of Section 5.7.

#### POWERS AND DUTIES OF ASSOCIATION

##### Powers

##### 5.3 Statement of Broad Powers

The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the General Nonprofit Mutual Benefit Corporation Law of California, subject only to such limitations on the exercise of its powers as are set forth in the Articles, the Bylaws, and this Declaration. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under this Declaration, the Articles, and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the acts enumerated in Sections 5.4-5.7.

##### 5.4 Assessment Rights

The Association may establish, fix, and levy assessments against the Owners and collect and enforce payment of such assessments, in accordance with the provisions of this Declaration.

##### 5.5 Right To Establish Rules Regulating Use of Common Area or Recreation Area

The Association may adopt, amend, and repeal Association Rules as it considers appropriate. The Association Rules shall regulate the use and enjoyment of the Common Area. A copy of the Association Rules as adopted, amended, or repealed shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Project. If any provision in this Declaration, the Articles, or the Bylaws is inconsistent with or materially alters any Association Rule, the Declaration, the Articles, or the Bylaws shall control to the extent of any such inconsistency.

##### 5.6 Right To Impose Sanctions for Violations of Declaration

In addition to any other enforcement right described in this Declaration and the Bylaws, or authorized by law

and subject to any restrictions on the Association's enforcement rights, including any due process requirements, imposed by this Declaration, the Bylaws, or by law, the Association may take any of the following actions against any person or entity whose act or failure to act violates or threatens to violate any provision of this Declaration, the Bylaws, or Association Rules:

- (a) Suspend voting rights in the Association;
- (b) Suspend use privileges for the Common Area;  
and
- (c) Commence a legal action for damages;  
injunctive relief, or both.

The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Association. Any legal action may be brought in the name of the Association on its own behalf and on behalf of any Owner who consents, and the prevailing party in any such action shall be entitled to recover costs and reasonable attorneys' fees. The Association may take more than one of the foregoing enforcement actions against any one violation or threatened violation, provided that a suspension of use privileges shall not exceed 30 days (unless the suspension is for delinquent assessments) for any one violation. The Association, in its sole discretion, may resolve or settle any dispute, including any legal action, under such terms and conditions as it considers appropriate.

The Association may not cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his or her Condominium except by judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under power of sale for failure of the Owner to pay assessments duly levied by the Association.

If an Owner fails to cure a default within sixty (60) days after written notice to that Owner, the

Association shall give the notice required in Section 13.8 to the Mortgagee of record.

5.7 Right To Delegate Powers and Duties; Professional Management

The Association may delegate any of its powers and duties to its employees, committees, or agents, including a professional management agent. The Association may contract and pay for goods and services

relating to the Common Area, and to employ personnel necessary for the operation and maintenance of the same, including legal and accounting services. Notwithstanding anything to the contrary:

- (a) The term of any contract with a third person for supplying goods or services to the Common Area or for the Association shall not exceed a term of one (1) year unless a longer term is approved by a majority of the voting power of each class of Members of the Association, or after conversion of the Class B membership to Class A membership, unless such longer term is approved by (i) fifty-one percent (51%) of the total voting power of Members of the Association, and (ii) at least fifty-one percent (51%) of the total voting power of Members of the Association other than Declarant, with the following exceptions:
  - (1) A contract with a public utility company for materials or services, the rates for which are regulated by the Public Utilities Commission, may exceed a term of one (1) year so long as it does not exceed the shortest term for which the public utility will contract at the regulated rate;
  - (2) A contract for prepaid casualty and/or liability insurance policies may be for a term of not to exceed three (3) years, provided that the policy permits short rate cancellation by the Association; and
  - (3) A management contract the terms of which have been approved by the VA and FHA, may exceed a term of two (2) years.
- (b) Any agreement for management of the Condominium Property and any other contract providing for services by Declarant shall be terminable for cause upon thirty (30) days' written notice, and without cause or payment of a termination fee upon not more than ninety (90) days' written notice. Such agreements shall be renewable with the consent of the Board and the management agent.
- (c) The Board shall not terminate professional management of the Condominium Property and assume self-management when professional management has been previously required by

any Eligible Mortgage Holder or Eligible Insurer or Guarantor without the (i) vote or written assent of seventy-five percent (75%) of the voting power of each class of Members of the Association; provided, however, that after conversion of the Class B membership to Class A membership, the termination of professional management shall require the vote or written assent of (a) seventy-five percent (75%) of the total voting power of Members of the Association and (b) seventy-five percent (75%) of the total voting power of Members of the Association other than the Declarant and (ii) prior written consent of Eligible Mortgage Holders whose mortgages encumber fifty-one percent (51%) or more of the Condominiums within the Condominium Property which are subject to Eligible Mortgage Holder Mortgages.

- (d) No contract with the Association negotiated by Declarant shall exceed a term of one (1) year except as may otherwise be provided in this Section 5.7.

#### Duties

5.8 Statement of Duties

In addition to the duties described in the Articles or Bylaws, the Association shall have the duties set forth in Sections 5.9-5.17 of this Declaration.

5.9 Management and Maintenance of Common Area or Recreation Area

The Association shall manage and maintain in good condition and repair the Common Area, including the facilities, improvements, landscaping, any private driveways and private streets, and other personal or real property acquired by or subject to the control of the Association.

5.10 Maintenance of Central Air Conditioning and Heating Systems

The Association shall maintain in good condition and repair the air conditioning and heating unit systems serving each Condominium, including boilers, solar devices, water or heat pumps and fan coils, but excluding flues, other nonmechanical components of such systems, and any solar heating components of such systems installed by an Owner. Any maintenance, repair, or replacement costs shall be charged to the Condominium served by the system with an appropriate



5.11 Contracting for Goods and Services

The Association shall enter into such contracts for services or materials as may be necessary to perform its duties, including contracts with Declarant, subject to the provisions of Sections 5.7-5.18.

5.12 Payment of Taxes and Assessments

The Association shall pay all real and personal property taxes and assessments and all other taxes levied against the Association, the Common Area, or the personal property owned by the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

5.13 Furnishing Water and Other Utilities

The Association shall acquire, provide, and pay for water, sewer, garbage disposal, refuse and rubbish collection, electrical, telephone, gas and other necessary utility services for the Common Area, and the Condominiums that are not separately billed.

5.14 Securing Insurance Coverage

The Association shall contract and pay for fire, casualty, liability, fidelity and other insurance adequately insuring the Association and Owners with respect to the Common Area and the affairs of the Association, which shall include bonding of the members of any management body. Notwithstanding any provisions herein to the contrary, so long as the Federal National Mortgage Association ("FNMA") holds a Mortgage on a Condominium in the project or owns a Condominium, the Association shall continuously maintain in effect such casualty and liability insurance and fidelity bond, meeting all requirements and containing such coverage and endorsements as may be required from time to time by FNMA.

Casualty insurance shall include a condominium master or blanket policy with full replacement cost coverage and an agreed value endorsement. Whether or not FNMA holds any Mortgage, fidelity insurance shall be in the form of a bond in an amount equal to one hundred and fifty percent (150%) of the Association's annual assessments plus reserves which protect against misuse or misappropriation of Association property by members of the Board of Directors, officers and employees of the Association, and any management agent and his employees, whether or not such persons are compensated

for their purposes.

5.15 Preparation and Distribution of Financial Statements, Reports, and Copies of Governing Instruments

The following financial and related information shall be regularly prepared and distributed by the governing body to all members of the Association:

1. A budget for each fiscal year consisting of at least the following information shall be distributed not less than 45 days and not more than 60 days prior to the beginning of the fiscal year.
  - (a) Estimated revenue and expenses on an accrual basis.
  - (b) The amount of the total cash reserves of the Association currently available for replacement of major repair of common facilities and for contingencies.
  - (c) An itemized estimate of the remaining life of, and the methods of funding to defray the costs of repair, replacement or additions to, major components of the common areas and facilities for which the Association is responsible.
  - (d) A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible.
2. A balance sheet - as of an accounting date which is the last day of the month closest in time to six months from the day of closing of the first sale of an interest in the subdivision - and an operating statement for the period from the date of the first closing to the said accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.
3. A report consisting of the following shall be distributed within 120 days after the close of the fiscal year.

- (a) A balance sheet as of the end of the fiscal year.
- (b) An operating (income) statement for the fiscal year.
- (c) A statement of changes in financial position for the fiscal year.

For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

If the report referred to in paragraph 3 above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or review.

In addition to financial statements, the governing body shall annually distribute within 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against members for defaults in the payment of regular and special assessments including the recording and foreclosing of liens against members' subdivision interests.

5.16 Enforcement of Bonded Obligations

If the Association is the obligee under a bond or other arrangement ("bond") to secure performance of a commitment of the Declarant or its successors or assigns to complete Common Area improvements, not completed at the time the California Commissioner of Real Estate issues a final subdivision public report for the latest phase of the Project, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvement for which a notice of completion has not been filed by the later of (i) 60 days after the completion date specified for that improvement in the "planned construction statement" appended to the bond, or (ii) 30 days after the expiration of any written extension given by the Association.

If the Board fails to consider and vote on the action to enforce the obligations under the bond, or if the Board decides not to initiate action to enforce the obligations under the bond, then on receipt of a petition signed by Owners representing not less than

five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of Owners for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the bond. The Board shall give written notice of the meeting to all Owners entitled to vote in the manner provided in this Declaration or in the Bylaws for notices of special meetings of Owners. The meeting shall be held not less than 35 days nor more than 45 days after receipt of the petition. At the meeting, the vote in person or by proxy of a majority of the Owners entitled to vote (other than Declarant) in favor of taking action to enforce the obligations under the bond shall be considered the decision of the Association and the Board shall implement this decision by initiating and pursuing appropriate action in the name of the Association.

The Association shall act in a reasonably prompt manner to exonerate Declarant and its surety under any bond in favor of the Association, provided such exoneration is appropriate.

5.17 Other Duties

The Association shall perform such other acts as may be reasonably necessary to exercise its powers or perform its duties under any of the provisions of this Declaration, the Articles, Bylaws, Association Rules, or Board resolutions.

LIMITATIONS AFFECTING BOARD

5.18 Limitations on Authority of Board or Association

Except with the vote or written assent of the Owners holding 51 percent of the voting rights of each class of Owners, if two classes exist, or, if only one class exists, 51 percent of the voting rights of all owners and 51 percent of the voting rights of all owners other than Declarant, the Board shall not take any of the following actions:

- (i) Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent of the budgeted gross expenses of the Association for that fiscal year;
- (ii) Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent of the budgeted gross expenses of the Association for that fiscal year;

- (iii) Pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse a member for expenses incurred in carrying on the business of the Association; or
- (iv) Enter into a contract with a third person to furnish goods or services for the Common Area or the Association for a term longer than one year, with the following exceptions:
  - (a) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration;
  - (b) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided the term does not exceed the shortest term for which the supplier will contract at the regulated rate;
  - (c) Prepaid casualty or liability insurance policies not to exceed three years' duration provided the policy permits for short rate cancellation by the insured; and
  - (d) Lease agreements for laundry room fixtures and equipment not to exceed five years duration provided the Declarant does not have a direct or indirect ownership interest of ten percent or more in any lessor under such agreements.

5.19 Limitations on Liability of Officers and Directors

No director, officer, committee member, employee, or other agent of the Association, including the Declarant or any agent of the Declarant when acting in such capacity, shall be liable to any Owner or any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such person if such person has acted in good faith and in a manner such person reasonably believed to be in the best interests of the Association.

5.20 Inspection of Association Books and Records

Any Owner, or that Owner's duly appointed representative, shall have access to the Association's membership register, books of account, and minutes from any meeting of the Owners, the Board, or any committee of the Board in order to inspect and copy such records for any purpose reasonably related to his or her interest as an Owner. Access shall be at any reasonable time at the office of the Association or such other place within the Project as the Board prescribes. The Board shall establish rules regarding the notice the Owner must give to the custodian of the records to obtain access, the hours and days of the week when the records may be inspected and copied, and the charges imposed by the Association for copying records requested by the Owner.

Any member of the Board may at any reasonable time inspect, copy, or make extracts of any books, records, and documents of the Association and inspect the physical properties owned or controlled by the Association.

#### ARTICLE VI

##### PROVISIONS DECLARING MEMBERSHIP AND VOTING RIGHTS

###### 6.1 Membership Appurtenant to Ownership

Each Owner, including Declarant, shall be a member of the Association. Membership shall be appurtenant to each Condominium, and the holding of an ownership interest in a Condominium shall be the sole qualification for membership, provided that no Owner shall hold more than one membership even though such Owner owns an interest in more than one Condominium. Membership shall terminate automatically when the Owner no longer holds any ownership interest in any Condominium. Membership may not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to a Condominium and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Condominium shall transfer automatically the appurtenant membership to the transferee. Any party that holds an interest in a Condominium merely as security for performance of an obligation shall not be a member of the Association.

Each member of the Association shall have the rights, duties, and obligations set forth in this Declaration, the Articles, Bylaws, and Association Rules.

5.2 Majority Approval Required

Except as otherwise provided in this Declaration, the Articles, or the Bylaws, and subject to the provisions of Section 6.3, all matters requiring the approval of Owners shall be deemed approved if Owners holding a majority of the total voting power of all Owners assent to them by written consent or if approved at any duly called regular or special meeting at which a quorum is present, either in person or by proxy, by Owners holding a majority of the total voting power of all Owners present, either in person or by proxy.

6.3 Two-Class System: Weighted Votes

The Association shall have two classes of voting membership as follows:

Class A: Class A Owners are all Owners, with the exception of Declarant. Each Class A Owner shall be entitled to one vote for each Condominium in which he or she owns an interest. If more than one Owner owns an interest in the Condominium, only one vote may be cast with respect to that Condominium.

Class B: The Class B Owner shall be the Declarant who shall be entitled to three votes for each Condominium owned in any phase of the Project. Class B membership shall cease and be converted to Class A membership on the occurrence of one of the following events, whichever occurs earliest:

- (i) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (ii) On the second anniversary of the original issuance of the final subdivision public report for the Project by the Commissioner of the California Department of Real Estate.

As long as two classes of voting memberships exist, any action by the Association that requires approval by the Owners, shall require the approval by the designated percentage of voting power in each class, except the action described in Section 5.16 of this Declaration.

Voting rights shall vest either at the time assessments are levied against the Owner's Condominium or as provided in a subsidization plan approved by the California Department of Real Estate.

Voting for the members of the Board shall be by secret written ballot, and the Members shall be entitled to exercise cumulative voting rights as provided in

Section 6.5.

6.4 Joint Ownership Votes

The vote that is attributed to each Condominium may not be cast on a fractional basis. If the Condominium has more than one Owner and the Owners are unable to agree as to how the vote should be cast, the vote shall be forfeited on the matter in question. If one Owner casts the vote attributed to a Condominium, the vote shall conclusively bind all the Owners of that Condominium. If more than one Owner casts the vote attributed to a Condominium in any matter in which only one vote could be cast for that Condominium, the votes cast by such Owners shall not be counted and shall be considered void.

6.5 Cumulative Voting

The election of members to the Board may be by cumulative voting as described herein, provided an Owner has placed a candidate's name in nomination prior to the voting and given notice at the meeting prior to the voting of the Owner's intention to cumulate votes. If any Owner has given such notice, then all Owners shall have the right to cumulate their votes for candidates in nomination. Under cumulative voting, each Owner, either in person or by proxy, may give a single candidate the number of votes equal to the number of directors to be elected multiplied by the number of votes the Owner is entitled to exercise under this Declaration, or the Owner may distribute these cumulated votes among any two or more candidates as the Owner desires. The candidates receiving the highest number of votes up to the number of Board members to be elected shall be elected. Unless the entire Board is removed by a vote of the Owners, an individual director may not be removed prior to the expiration of his or her term if the votes against removal would have been sufficient to elect that director if cast cumulatively at an election at which the same total number of votes were cast and all directors authorized at the time of the most recent election of that director were being elected. These cumulative voting provisions do not apply to the election of special directors by Owners other than Declarant under the provisions set forth in the Bylaws.

ARTICLE VII

ASSESSMENTS

PROVISIONS ESTABLISHING ASSESSMENTS

7.1 Agreement To Pay

The Declarant covenants and agrees for each Condominium owned by it in the Project that is expressly made subject to assessments as set forth in this Declaration, and each Owner by acceptance of a deed covenants and agrees for each such Condominium owned, to pay to the Association the regular and special assessments levied in accordance with the provisions of this Declaration, and to allow the Association to enforce any assessment lien established in accordance with the provisions of this Declaration by nonjudicial proceedings under a power of sale or by any other means authorized by law.

7.2 Declarant's Limited Exemption From Assessment During Construction

Notwithstanding the provisions of Section 7.1, Declarant or any other Owner shall not be obligated to pay any portion of a regular or special assessment that is for the purpose of defraying expenses and establishing reserves directly attributable to the existence and the use of any Condominium that does not include a structural improvement for human occupancy until a notice of completion of a structural improvement on that Condominium has been recorded in the County Recorder's office or until the expiration of 120 days after the issuance of a building permit for the structural improvement, whichever shall first occur. This assessment exemption includes, but is not limited to, assessments levied for the following purposes: roof replacement, exterior maintenance, walkway and carport lighting, refuse disposal, cable television, and domestic water supplied to living Units.

7.3 Assessments as Personal Obligation of Owner

Each assessment or installment, together with any late charge, interest, collection costs, and reasonable attorneys' fees, shall be the personal obligation of the Owner at the time such assessment or installment becomes due and payable. If there is more than one Owner of a particular Condominium, each Owner shall be jointly and severally liable. The personal obligation for any delinquent assessments or installments and related sums shall not pass to an Owner's successor in interest unless expressly assumed by that successor in interest. No Owner may be relieved from the obligation to pay assessments or installments by waiving the use or enjoyment of all or any portion of the Common Area or the Owner's Condominium, or by abandoning the Condominium.

7.4 Scope of Assessment Authority

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the members of the Association, to improve, replace, repair, operate, and maintain the Common Area, and the improvements and personal property in the Common Area that are owned or maintained by the Association, to provide funds necessary for the performance of the duties of the Association as set forth in this Declaration, and to further any other purpose that is for the common benefit of the Owners in their use and enjoyment of the Property.

7.5 Procedure for Establishing Regular Assessments

Not more than 90 days nor less than 60 days before the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the regular annual assessment for the forthcoming fiscal year. At such meeting the Board shall review the preliminary pro forma operating budget prepared in accordance with the provisions of Section 5.15, any written comments received from members and mortgagees, and such other related information that has been made available to the Board. After making any adjustments that the Board considers appropriate, the Board, subject to the restrictions described in this provision and without the requirement for a vote of the Owners, shall establish the regular assessment for the forthcoming fiscal year. The Board may not establish a regular assessment for any fiscal year that is more than 120 percent of the regular assessment for the prior fiscal year (except the Association's first fiscal year if it is less than 12 months) without the approval by vote or written consent of the Owners holding 51 percent of the voting rights of each class of Owners if there are two classes, or if there is one class, the approval by vote or written consent of (i) the Owners holding 51 percent of the voting rights of all the Owners, and (ii) the Owners, other than Declarant, holding 51 percent of the voting rights of all the Owners other than Declarant.

Unless the Association is exempt from federal or state income taxes, including without limitation an exemption under Internal Revenue Code Section 528 and Revenue and Taxation Code Section 23701t, all reserve funds, to the extent possible, shall be designated and accounted for as capital contributions to the Association, and the Board shall take such steps as may be reasonably necessary under federal and state tax laws to prevent the reserve funds from being taxed as income of the Association, including, if necessary, maintaining the

reserve funds in segregated accounts and not commingling the funds with general operating funds.

7.6 Procedure for Levying Special Assessments

Subject to the restrictions described in Section 7.7, the Board may levy a special assessment if the Board, in its discretion, determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including the maintenance of appropriate reserves, for a particular fiscal year for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, and unexpected repairs or replacements of capital improvements. The Board shall determine the amount necessary to meet the estimated expenses, and if the amount is approved by a majority vote of the Board, it shall become a special assessment. The Board, in its discretion, may levy the entire assessment immediately or levy it in installments over a period it considers appropriate. Unless the Association is exempt from federal or state income taxes, including without limitation an exemption under Internal Revenue Code Section 528 and Revenue and Taxation Code Section 23701t, the Board shall take such steps as may be reasonably necessary to prevent the special assessment from being included in the Association's income for federal and state income tax purposes, including, if necessary, depositing the funds in a segregated account, not commingling the funds with any other funds of the Association, and using the funds solely for the purpose for which they were levied.

After compliance with the due process requirements in the Bylaws, the Board may levy a special assessment against a particular Condominium to reimburse the Association for costs incurred in repairing damage to the Common Area, or any improvements or personal property located thereon, for which the Owner was allegedly responsible, or in bringing the Owner or the Owner's Condominium into compliance with this Declaration, the Articles, or Bylaws, provided, however, this special assessment may not become a lien against the Owner's Condominium that is enforceable by a power of sale under Civil Code Sections 2924, 2924b, and 2924c. This restriction on enforcement is not applicable to late payment penalties for delinquent assessments or charges imposed to reimburse the Association for loss of interest or for collection costs, including reasonable attorneys' fees, for delinquent assessments.

7.7 Restrictions on Amount of Special Assessments

The Board may not levy any special assessment that,

either by itself or in the aggregate with other special assessments levied for that fiscal year, would be in excess of five percent of the budgeted gross expenses of the Association for the fiscal year, without the approval by vote or written consent of the Owners holding 51 percent of the voting rights of each class of Owners, if there are two classes, or, if there is one class, the approval by vote or written consent of (i) the Owners holding 51 percent of the voting rights of all the Owners, and (ii) the Owners, other than Declarant, holding 51 percent of the voting rights of all the Owners other than Declarant. The foregoing restriction shall not apply to an assessment levied against a particular Condominium to reimburse the Association for costs incurred in bringing the Owner or the Condominium into compliance with this Declaration, the Articles, Bylaws, or Association Rules.

7.8 Allocation of Assessments

Subject to the provisions of Section 7.2, the regular and special assessments levied by the Board shall be allocated among the Condominiums as follows:

- (1) Except as otherwise provided herein, an assessment shall be allocated among each Condominium subject to the assessment by dividing the total amount of the assessment by the total number of Condominiums subject to the assessment.
- (2) That portion of an assessment levied to meet the costs and reserves for (e.g., water, central air conditioning, insurance, painting of exteriors, replacement of roofs) and any special assessment levied to meet the costs for rebuilding or major repairing of the structural Common Area of the Condominiums shall be allocated among each Condominium subject to the assessment by multiplying the portion of the assessment, by a fraction, the numerator of which is the square footage of the living area of the Condominium and the denominator of which is the total square footage of the living areas of all the Condominiums subject to the assessment.

Special assessments levied against a particular Condominium to reimburse the Association for costs incurred in bringing the Owner of the Condominium into compliance with this Declaration, the Articles, Bylaws, or Association Rules shall not be subject to these allocation provisions.

7.9 Assessment Period

Unless the Board determines otherwise, the Association's fiscal year shall be a calendar year, and the regular assessment period shall commence on January 1 of each year and shall terminate of December 31 of that year, provided that the first regular assessment period for all Condominiums in any phase shall commence on the first day of the calendar month following the date of the closing of the first conveyance of a Condominium, in that phase, and shall terminate on December 31 of that year. The regular assessment shall be payable in equal monthly installments unless the Board adopts some other method for payment. The first regular assessment and all special assessments shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the Board adopts some other method for payment.

7.10 Due Dates, Late Charges, and Interest

At least ten (10) days prior to the commencement of any regular or special assessment, the Board shall give each Owner written notice of the amount of assessment, and the due date (or due dates if paid in installments, and the amount of each installment). The notice need only be given once for any assessment paid in installments. Unless the Board specifies otherwise, the installment due dates shall be the first day of each month.

Any assessment payment, including any installment payment, shall become delinquent if payment is not received by the Association within 30 days after its due date. There shall be a late charge of \$10 for each delinquent payment. The Board may impose a higher late charge provided it does not exceed one and one-half percent of the first \$1000 of the delinquent payment and one percent of any amount in excess of \$1000. A late charge may not be imposed more than once on any delinquent payment, shall not eliminate or supersede any charges imposed on prior delinquent payments, and shall constitute full compensation to the Association for any additional bookkeeping, billing, or other administrative costs resulting from the delinquent payment.

Interest also shall accrue on any delinquent payment at the rate of 10 percent per annum or at such rate as the Board may impose from time to time. Late charges and interest shall accrue from the first day following the due date of the assessment through and including the date full payment is received by the Association.

7.11 Requirement for Estoppel Certificate

Within ten (10) days of the mailing or delivery of a written request by any Owner, the Board shall provide the Owner with a written statement containing the following information: (i) whether, to the knowledge of the Association, the Owner or the Owner's Condominium is in violation of any of the provisions of this Declaration, the Articles, Bylaws, or Association Rules; (ii) the amount of regular and special assessments, including installment payments, paid by the Owner during the fiscal year the request is received; and (iii) the amount of any delinquent assessments, penalties, interest, attorneys' fees, and other charges on the Owner's Condominium, as provided by this Declaration, the Articles, Bylaws, or Association Rules.

The Board may charge the Owner a fee to recover its reasonable costs in preparing the statement. Any prospective purchaser or mortgagee of the Owner's Condominium may rely on the information in this written statement, provided that reliance may not extend to any violation of the Declaration, the Articles, or Bylaws of which the Association does not have actual knowledge.

PROVISIONS ENFORCING ASSESSMENTS; LIENS

7.12 Association's Powers to Sue and to Establish Assessment Lien

The Association has the right to collect and enforce assessments. In addition to the enforcement powers described in Section 5.6, the Association may enforce delinquent assessments, including delinquent installments, by suing the owner directly on the debt established by the assessment, or by establishing a lien against the Owner's Condominium as provided in Section 7.13 and foreclosing the lien through either judicial proceedings or nonjudicial proceedings under a power of sale as provided in Section 7.14. The Association may commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien against the Owner's Condominium for the delinquent assessment. In any action instituted by the Association to collect delinquent assessments, accompanying late charges, or interest, the prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

7.13 Creation of Assessment Lien

A delinquent assessment or installment, together with any accompanying late charges, interest, costs

(including reasonable attorneys' fees), and penalties as may be authorized under this Declaration, shall become a lien on the Condominium against which the assessment was levied on the recordation in the office of the County Recorder of the County. The notice shall describe the amount of the delinquent assessment or installment, the related charges authorized by this Declaration, a description of the Condominium, and the name of the Owner; and shall be signed by any officer of the Association or any employee or agent of the Association authorized to do so by the Board.

Unless the Board considers the immediate recording of the notice to be in the best interest of the Association, the notice shall not be recorded until 15 calendar days after the Association has delivered a written notice of default and a demand for payment. If the delinquent assessment or installment and related charges are paid or otherwise satisfied, the Association shall record a notice of satisfaction and release of lien. Unless the lien is satisfied and released or the Association commences action to enforce the lien, either through judicial proceedings or nonjudicial foreclosure under Sections 2924, 2924b, and 2924c of the Civil Code, the lien shall expire one year from the date of recordation of the notice of assessment, provided that the Association may extend the lien for one additional year only by recording a notice of extension in the office of the County Recorder of the County.

7.14 Foreclosure Under Assessment Lien

Not more than one year (or two years if the assessment lien has been extended in accordance with Section 7.13) nor less than 15 days after the recording of the notice of assessment, the Board may enforce any assessment lien established under Section 7.13 by filing an action for judicial foreclosure or by recording a notice of default in the form described in Civil Code Section 2924c(b)(1) to commence a nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted in accordance with the requirements of Civil Code Sections 2924, 2924b, 2924c, 2924f, 2924g, and 2924h that are applicable to nonjudicial foreclosures of Mortgages or deeds of trust, provided that the Association may appoint its attorney, any officer or director, or any title insurance company authorized to do business in California to conduct the sale. The Association may bid on the Condominium at the sale and may hold, lease, mortgage or convey the acquired Condominium. If the default is cured before the sale, or before completing a judicial foreclosure, including payment of all costs and expenses incurred by the Association, the Association shall record a notice of

satisfaction and release of lien, and on receipt of a written request by the Owner, a notice of rescission rescinding the declaration of default and demand for sale.

7.15 Waiver of Homestead Protections

Each Owner, to the extent permitted by law, waives the protections of any declared homestead or homestead exemption under the laws of California as applied to any action to enforce the assessments levied by the Association.

7.16 Subordination of the Lien to First Deeds of Trust and First Mortgages

The lien of the assessments, including interest, costs (including attorneys fees), provided for herein shall be subordinate to the lien of any first Mortgage upon any Condominium. Sale or transfer of any Condominium shall not affect the assessment lien. The transfer of a subdivision interest as the result of the exercise of a power of sale or a judicial foreclosure involving a default under the first encumbrance shall extinguish the lien of assessments which were due and payable prior to the transfer of the subdivision interest. No sale or transfer shall relieve such Condominium from lien rights for any assessments thereafter becoming due. Where the Mortgagee of a first Mortgage of record or other purchaser of a Condominium obtains title, his successors and assigns, shall not be liable for th share of the Common Expenses or assessments by the Association chargeable to such Condominium which became due prior to the acquisition of title to such Condominium which became due prior to the acquisition of title to such Condominium by such acquirer. Such unpaid share of Common Expenses shall be collectible from all of the Condominiums including such acquirer, his successors and assigns.

7.17 Taxation of Association

In the event that any taxes are assessed against the Common Area or the personal property of the Association, rather than against the individual Condominiums, said taxes shall be added to the annual assessments and, if necessary, a special assessment may be levied against the Condominium in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the date of each tax installment.

7.18 Capitalization of Association

Upon acquisition of record title to a Condominium from Declarant, each Owner shall contribute to the capital

of the Association an amount equal to one-sixth (1/6) the amount of the then annual assessment for that Condominium as determined by the Board. This amount shall be deposited by the buyer into the purchase and sale escrow and disbursed therefrom to the Association. After close of the first sales escrow of a Condominium by Declarant, as seller, Declarant shall deposit into an escrow an amount equal to one-sixth (1/6) of the then annual assessment for any and all Condominiums not yet sold. Escrow shall remit these funds to the Association. Upon the close of escrow of any Condominium for which the capital contribution was prepaid by Declarant, escrow shall remit to the Declarant the capital contribution collected from the Owner.

## ARTICLE VIII

### INSURANCE

#### 8.1 Liability Insurance

The Association shall obtain and maintain comprehensive public liability insurance insuring the Association, any manager, the Declarant and the Owners and occupants of Condominiums, and their respective family members, guests, invitees, and the agents and employees of each, against any liability incident to the ownership or use of the Common Area or any other Association-owned or maintained real or personal property and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$1,000,000 covering all claims for death, personal injury, and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.

#### 8.2 Association Fire Insurance

The Association shall obtain and maintain a master or blanket policy of fire insurance coverage for the full insurable value of all of the improvements within the Project. The form, content, and term of the policy and its endorsements and the issuing company must be satisfactory to all institutional first mortgagees. If more than one institutional first mortgagee has a loan of record against a Condominium in the Project, the

policy and endorsements shall meet the maximum standards of the various institutional first mortgagees represented in the Project. To the extent available, the policy shall contain an agreed amount endorsement or its equivalent; an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or their equivalent; an extended coverage endorsement; vandalism, malicious mischief coverage; a special form endorsement; and a determinable cash adjustment clause or a similar clause to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild. The policy shall provide amounts of coverage as shall be determined by the Board. The policy shall name as insured the Association, the Owners and Declarant (as long as Declarant is the Owner of any Condominium) and all mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of the trustee described in Section 8.3.

8.3 Appointment of Trustee

All fire and casualty insurance proceeds payable under Section 8.2 for losses to real property and improvements, subject to the rights of Mortgagees under Section 8.7, may be paid to a trustee, to be held and expended for the benefit of the Owners, Mortgagees, and others, as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the County in which the Project is located that agrees in writing to accept such trust. If repair or reconstruction is authorized, the Association shall have the duty to contract for such work as provided for in this Declaration.

8.4 Individual Fire Insurance Limited

Except as provided in this clause, no Owner shall separately insure his Unit against loss by fire or other casualty covered by any insurance carried under Section 8.2. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under policies described in Section 8.2 that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance, and such Owner will be liable to the Association to the extent of any such diminution. An Owner can insure his personal property against loss. In addition, any improvements made by an Owner within his Unit may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements". All such insurance that is individually carried must contain a

waiver of subrogation rights by the insurer as to other Owners, the Association, Declarant, and institutional first Mortgagees of such condominium.

8.5 Demolition, Workers' Compensation, and Other Association Insurance

The Association may and, if required by any institutional first Mortgagee, shall purchase and maintain demolition insurance in adequate amounts to cover demolition, in case of total or partial destruction of the Project and a decision not to rebuild, and a blanket policy of flood insurance. The Association also shall purchase and maintain workers' compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Association also shall purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than 150 percent of each year's estimated annual operating expenses and reserves and shall contain an endorsement of coverage of any person who may serve without compensation) sufficient to meet the requirements of any institutional first Mortgagee. The Association shall purchase and maintain such insurance on personal property owned by the Association, and any other insurance, that it deems necessary or that is required by any institutional first Mortgagee.

8.6 Provision To Adjust Losses

The Association is authorized to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Sections 8.1, 8.2 and 8.5. The Association is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

8.7 Distribution to Mortgagees

Subject to the provisions of Section 13.6, any Mortgagee has the option to apply insurance proceeds payable on account of a Condominium in reduction of the obligation secured by the Mortgage of such Mortgagee.

8.8 Director and Officer Liability Insurance

To the extent insurance is available, the Association shall purchase and maintain insurance in an amount up to Five Hundred Thousand Dollars (\$500,000) on behalf of any Director, Officer, or Member of a Committee of the Association (collectively the "agents") against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as

such, regardless of whether the Association would have the power to indemnify the agent against such liability under applicable law.

8.9 Owner's Liability Insurance

An Owner may carry whatever personal liability and property damage liability insurance with respect to his or her Condominium that he or she desires. However, any such policy shall include a waiver of subrogation clause acceptable to the Board and to any institutional first Mortgagee.

ARTICLE IX

DESTRUCTION OF IMPROVEMENTS

9.1 Destruction in Multi-Structure Projects: Proceeds Exceed 85 Percent of Reconstruction Costs

If there is a total or partial destruction of any of the improvements in the Project, and if the available proceeds of the insurance carried pursuant to Section 8.2 are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt, unless, within ninety (90) days from the date of destruction, Owners then holding at least seventy-five percent (75%) of the total voting power of each class of Owners present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction is to take place, the Association shall be required to execute, acknowledge, and record in the office of the County Recorder of the County not later than one-hundred twenty (120) days from the date of destruction, a certificate declaring the intention of the Owners to rebuild.

9.2 Destruction in Multi-Structure Projects: Proceeds Less than 85 Percent of Reconstruction Costs

If the proceeds of insurance carried pursuant to Section 8.2 are less than eighty-five percent (85%) of the costs of repair and reconstruction, the improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, Owners then holding at least sixty-six and two-thirds percent

(66 2/3%) of the total voting power of each class of Owners present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two reputable contractors to repair and reconstruct the improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction are to take place, the Association shall execute, acknowledge, and record in the office of the County Recorder of the County not later than one-hundred twenty (120) days from the date of destruction a certificate declaring the intention of the Owners to rebuild.

9.3 Apportionment of Assessments for Reconstruction in Condominium Projects

If the improvements are to be rebuilt pursuant to Sections 9.1-9.2, each Owner shall be obligated to contribute his proportionate share of the cost of reconstruction or restoration over and above the available insurance proceeds. The proportionate share of each Owner shall be based on the ratio that the square footage of the living area of his unit bears to the total square footage of the living area of all units. If any Owner fails or refuses to pay his proportionate share, the Board may levy a special assessment against the Condominium of such Owner, which may be enforced under the lien provisions contained in Sections 7.13-7.14 or in any other manner provided in this Declaration.

9.4 Rebuilding Contract

If rebuilding is authorized, the Association or its authorized representative shall, after having obtained bids from at least two reputable contractors as required by Sections 9.1-9.2, award the repair and reconstruction work to the lowest bidder that otherwise meets the requirements set forth by the Association in soliciting bids. The Association shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds held by the trustee shall be disbursed to the contractor according to the terms of the contract. It shall be the obligation of the Association to take all steps necessary to assure the commencement and completion of authorized rebuilding at the earliest possible date.

9.5 Election Not to Rebuild: Association Purchase of Uninhabitable Units

If the Owners determine not to rebuild and if, prior to the expiration of one-hundred twenty (120) days from the date of destruction, Owners holding seventy-five percent (75%) of the total voting power of each class of Owners consent in writing or by vote at a duly constituted meeting, and seventy-five percent (75%) of institutional first Mortgagees with Mortgages encumbering Condominiums in the Project consent, the Association shall have the right to purchase the Condominiums of which the Units were rendered uninhabitable by such damage or destruction at their fair market value immediately prior to the damage or destruction, as determined by an appraiser in accordance with the provisions in Section 9.8, using the available proceeds of insurance for such purchase. Any shortage of insurance proceeds shall be made up by a special assessment levied against all remaining Owners in the manner described in Section 9.3 (but without the consent or approval of Owners, despite any contrary provisions in the Declaration). The Board's decision as to whether a Unit is uninhabitable shall be final and binding on all parties. Any payment of the purchase price shall be made jointly to the selling Owner and all Mortgagees of that Owner's Condominium, and each owner, by accepting a deed to a Condominium, agrees to be bound by these provisions and to sell his or her Condominium and to convey it by grant deed to the Association as provided in this clause. Concurrently with such purchase, the Association or individuals authorized by the Board, acting as attorney-in-fact of all Owners, shall amend the

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Condominium Plan, the Subdivision Map (if necessary), and this Declaration to eliminate from the Project the Condominiums so purchased and to adjust the undivided ownership interests of the remaining Owners to reflect the reduced number of Condominiums in the Project; and the Association shall convey to each remaining Owner a proportionate share of the undivided interests in the Common Area represented by the Condominiums purchased. This proportion shall be in the ratio that each remaining Owner's undivided interest in the Common Area bears to all remaining Owners' undivided interests in the Common Area.

Notwithstanding the determination not to rebuild uninhabitable Units pursuant to Sections 9.1-9.2, if the uninhabitable Units are to be purchased by the Association, then any Units that have not been rendered uninhabitable shall be repaired and restored to a condition as near as possible to their condition immediately before such damage or destruction. Such repair and restoration shall be paid for, first from the insurance proceeds, if any, remaining after the purchase of Units, and second, from a special assessment levied against all remaining Owners in the manner described in Section 9.3 (but without the consent or approval of Owners, despite any contrary provisions in the Declaration).

9.6 Election Not to Rebuild: Apportionment if Purchase Not Authorized

If the Owners elect not to rebuild, and if the required seventy-five percent (75%) of all Owners and institutional first Mortgagees do not consent to purchase the Condominiums of which the Units were rendered uninhabitable, an appraiser shall determine the relative fair market values of all Condominiums in the Project in accordance with the provisions in Section 9.8 as of a date immediately prior to any damage or destruction; and the proceeds of insurance shall be apportioned among all Owners, and their respective Mortgagees, in proportion to such relative values. The Board shall have the duty, within one-hundred twenty (120) days from the date of destruction, to execute, acknowledge, and record in the office of the County Recorder of the County, a certificate declaring the intention of the Owners not to rebuild. On recordation of the certificate, the right of any Owner to partition through legal action as described in Section 11.1 shall revive immediately.

9.7 Minor Repair and Reconstruction

The Association shall have the duty to repair and reconstruct improvements, without the consent of Owners

and irrespective of the amount of available insurance proceeds, in all cases of partial destruction when the estimated cost of repair and reconstruction does not exceed Twenty Thousand Dollars (\$20,000).

The Association is empowered to levy a special assessment for the cost of repairing and reconstructing improvements to the extent insurance proceeds are unavailable, such assessment to be levied as described in Section 9.3 (but without the consent or approval of the Owners, despite any contrary provisions in this Declaration).

9.8 Fair Market Value as Appraisal Standard

Wherever in Sections 9.1-9.7, reference is made to a determination of the relative fair market value of one or more Condominiums by an appraiser, this means the relative fair market value of such Condominiums as of a date immediately prior to any damage or destruction, as determined by an appraisal by an independent appraiser selected by the Board, who shall be a member of the Society of Real Estate Appraisers or other nationally recognized appraiser organization and who shall apply its or such other organization's standards in determining the value or fair market value of each Condominium. The costs of such appraisals shall be paid from the sale or insurance proceeds, as the case may be.

**ARTICLE X**

**CONDEMNATION PROVISIONS**

10.1 Sale by Unanimous Consent or Taking

If an action for condemnation of all or a portion of the Project is proposed or threatened by any governmental agency having the right of eminent domain, then, on unanimous written consent of all of the Owners and all institutional Mortgagees, the Project, or a portion of it, may be sold and conveyed to the condemning authority by the Association or its designees acting as the attorney-in-fact of all Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a condominium in the Project grants to the Association and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. If the requisite number of Owners or institutional Mortgagees do not consent to a sale of all or a portion of the Project, and the condemning authority institutes condemnation proceedings, the court shall fix and

determine the condemnation award.

10.2 Distribution of Sale Proceeds or Condemnation Award:  
Total Sale or Taking

If there is a total sale or taking of the Project, meaning a sale or taking (i) that renders more than fifty percent (50%) of the units uninhabitable (such determination to be made by the Board in the case of a sale and by the court in the case of a taking) or (ii) that renders the Project as a whole uneconomical as determined by the vote or written consent of sixty-six and two-thirds percent (66 2/3%) of those Owners and their respective institutional Mortgagees whose units will remain habitable after the taking, the right of any Owner to partition through legal action as described in Section 11.1 shall revive immediately. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. The proceeds of any such total sale or taking of the Project, together with the proceeds of any sale pursuant to a partition action, after payment of all expenses relating to the sale, taking, or partition action, shall be paid to all Owners and to their respective Mortgagees in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums. The fair market value of Condominiums shall be determined in the condemnation action, if such be instituted, or by an Appraiser pursuant to Section 10.4.

10.3 Distribution of Sale Proceeds or Condemnation Award:  
Partial Sale or Taking

In case of a partial sale or taking of the Project, meaning a sale or taking that is not a total taking as described in Section 10.2, the proceeds from the sale or taking shall be paid or applied in the following order of priority, and any judgment of condemnation shall include the following provisions as part of its terms:

- (i) To the payment of expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then
- (ii) To Owners and their respective Mortgagees, as their interests may appear, of Condominiums in the Project whose units have been sold or taken, an amount up to the fair market value of such condominiums as determined by the Court in the condemnation proceeding or by an

appraiser selected by the Board, who meets the qualifications described in Section 10.4, less such Owner's share of expenses paid pursuant to the preceding subsection (i) (which share shall be in proportion to each Owner's undivided interest in the Common Area). After such payment, the recipient shall no longer be deemed an Owner, and the Board or individuals authorized by the Board, acting as attorney-in-fact of all Owners, shall amend the Condominium Plan, the Subdivision Map (if necessary), and this Declaration to eliminate from the Project the Condominiums so sold or taken and to adjust the undivided ownership interests of the remaining Owners in the Common Area based upon the ratio that each remaining Owner's undivided interest bears to all the remaining Owner's undivided interests in the Common Area; then

- (iii) To any remaining Owner and to his or her Mortgagees, as their interest may appear, whose Condominium has been diminished in fair market value as a result of the sale or taking disproportionately to any diminution in value of all Condominiums, as determined pursuant to Section 10.4, but as of a date immediately after any announcement of condemnation, an amount up to the total diminution in value; then
- (iv) To all remaining Owners and to their respective Mortgagees, as their interest may appear, the balance of the sale proceeds or award in proportion to the ratio that the fair market value of each remaining Owner's Condominium bears to the fair market value of all remaining Owners' Condominiums as determined by the Court in the condemnation proceeding or by an appraiser pursuant to Section 10.4.

10.4 Fair Market Value as Appraisal Standard

Wherever in Sections 10.1-10.3, reference is made to a determination of the value or fair market value of one or more Condominiums, it shall mean the relative fair market value of each such Condominium as of a date immediately prior to the announcement of condemnation, as determined by an appraisal by an independent appraiser selected by the Association, who shall be a member of the Society of Real Estate Appraisers or other nationally recognized appraiser organization and who shall apply its or such other organization's

standards in determining the value or fair market value of each Condominium. The costs of such appraisals shall be paid from the sale proceeds.

#### ARTICLE XI

##### PARTITION OF COMMON AREA OF CONDOMINIUM PROJECTS

###### 11.1 Suspension

Except as expressly provided in this clause, an Owner shall have no right to partition or divide his or her ownership of the Common Area. Partition of the Common Area can be had on a showing that the conditions to such partition as stated in Sections 9.6 (relating to damage or destruction) or in Section 10.2 (relating to condemnation) or in Civil Code Section 1354(b) have been met. Nothing in this Declaration shall prevent partition of a cotenancy in a Condominium.

###### 11.2 Distribution of Proceeds

Proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their Mortgagees as their interests appear in proportion to the ratio that the fair market value of each Owner's Condominium bears to the fair market value of all Owners' Condominiums determined as provided in Section 10.4, but as of a date immediately prior to the event giving rise to the right of Owners to partition the Common Area.

###### 11.3 Power of Attorney

Pursuant to California Civil Code Section 1355(b)(9) each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Project, and to execute deeds and conveyances to it, in one or more transactions, for the benefit of all Owners when partition of the Project may be had under Civil Code Section 1354 and under the circumstances authorizing partition under this Declaration. The power of attorney shall (i) be binding on all Owners, whether they assume the obligations under this Declaration or not; (ii) be exercisable by a majority of the Board acting on behalf of the Association, subject to obtaining the prior approval by vote or written consent of 75 percent of the Owners and 75 percent of all institutional first Mortgagees; and (iii) be exercisable only after recordation with the County Recorder of a certificate

executed by those who have power to exercise the power of attorney that the power of attorney is properly exercisable under Section 1355(b)(9) of the Civil Code. This certificate shall be conclusive evidence of proper exercise in favor of any person relying on it in good faith.

## ARTICLE XII

### NONSEVERABILITY OF COMPONENT INTERESTS IN A CONDOMINIUM

#### 12.1 Provision To Prohibit Severance

An Owner shall not be entitled to sever his Unit in any Condominium from his membership in the Association, and shall not be entitled to sever his Unit and his membership from his undivided interest in the Common Area for any purpose. None of the component interests in a Condominium can be severally sold, conveyed, encumbered, hypothecated, or otherwise dealt with; and any violation or attempted violation of this provision shall be void. Similarly, no Owner can sever any exclusive easement appurtenant to his Unit over the Common Area from his Condominium, and any attempt to do so shall be void. The suspension of such right of severability will not extend beyond the period set forth in Section 11.1 respecting the suspension of partition. It is intended by this provision to restrict severability under California Civil Code Section 1355(g).

#### 12.2 Provision To Limit Interests Conveyed

After the initial sales of the Condominiums, unless otherwise expressly stated, any conveyance of a Unit or any portion of it by an Owner shall be presumed to convey the entire Condominium. However, nothing contained in this section shall preclude the Owner of any Condominium from limiting the duration of the enjoyment of his or her Condominium estate, such as by creating an estate for life or an estate for years, or from creating a cotenancy or joint tenancy in the ownership of the Condominium with any other person or persons.

## ARTICLE XIII

### PROTECTION OF MORTGAGEES

#### 13.1 Mortgage Permitted

Any Owner may encumber his Condominium with a Mortgage.

13.2 Subordination

Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first Mortgage that encumbers all or a portion of the Project, or any Condominium, made in good faith and for value; and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates its interest, in writing, to such lien. If any Condominium is encumbered by a first Mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in the Declaration for assessments, or installments of assessments, shall not operate to affect or impair the lien of the Mortgage. On foreclosure of the Mortgage, the lien for assessments or the installments that have accrued up to the time of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser taking title to the Condominium free of the lien for assessments or installments that have accrued up to the time of the foreclosure sale. On taking title to the Condominium the foreclosure-purchaser shall be obligated to pay only assessments or other charges levied or assessed by the Association that became due or payable on or after the foreclosure-purchaser acquired title to the Condominium. The subsequently levied assessments or other charges may include previously unpaid assessments, provided all Owners, including the foreclosure-purchaser and his successors and assigns, are required to pay their proportionate share as provided in this clause.

13.3 Control of Amendment or Revocation of Project Documents

In addition to the requirements of Sections 15.1-15.2, and unless a greater percentage is expressly required by this Declaration, the Articles, the Bylaws, or by law, the prior written consent (or deemed consent as provided below in this clause), of first Mortgagees of Condominiums that have at least fifty-one percent (51%) of the votes of all Condominiums encumbered by first Mortgages shall be required to add or amend any material provisions of the Declaration, the Articles, the Bylaws, the Condominium Plan, or the Subdivision Map, which establish, provide for, govern, or regulate any of the following:

- (i) Voting;
- (ii) Assessment, collection of assessments,

- assessment liens or subordination of such liens;
- (iii) Reserves for maintenance, repair and replacement of Common Area or improvements located on it;
  - (iv) Casualty and liability insurance or fidelity bonds;
  - (v) Rights to use the CommonArea;
  - (vi) Responsibility for maintenance and repair of Condominiums and Common Area and their improvements;
  - (vii) Expansion or contraction of the Project or the addition, annexation, or withdrawal of real property to or from the Project;
  - (viii) Boundaries of any Condominium;
  - (ix) The interests or rights of the Association or Ownersinand to the CommonArea;
  - (x) The convertibility of Condominiums into Common Area or of Common Area into Condominiums;
  - (xi) The leasing of Condominiums;
  - (xii) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his or her Condominium; or
  - (xiii) Any provisions that are for the express benefit of first Mortgagees or insurers or governmental guarantors of first mortgages.

For purposes of this provision, an addition or amendment shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. Any first Mortgagee who receives a written request to consent to additions or amendments requiring consent under this provision who does not deliver or post to the requesting party a negative response within thirty (30) days after such receipt shall be deemed to have consented to such request.

#### 13.4 Restriction on Certain Changes

In addition to the requirements of Sections 15.1-15.2, unless sixty-six and six tenths percent (66.6%) of first Mortgagees of Condominiums have given their prior

written approval, neither the Association nor the Owners shall be entitled:

- (i) By act or omission to seek to abandon or terminate the condominium project, except for abandonment provided by statute in case of substantial loss to the units and Common Area;
- (ii) To change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner, or to change the prorata interest or obligations of any condominium for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for determining the prorata share of ownership of each Owner in the Common Area;
- (iii) To partition or subdivide any Unit;
- (iv) By act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association or the Owners shall not be deemed to be a transfer within the meaning of this clause.
- (v) To use hazard insurance proceeds for losses to units or Common Area improvements in the development or to any other Association property, for other than the repair, property except as provided by statute in case of substantial loss to the Units or Common Area of the Project.
- (vi) By act or omission to change, waive, or abandon the provisions of this Declaration, or the enforcement of any of them, pertaining to architectural design or control of the exterior appearance of structures in the development, the maintenance of the Common Area, walks, fences, and driveways, or the upkeep of lawns and plantings in the Project.
- (vii) To fail to maintain fire and extended coverage insurance on insurable Association property, including any Common Area improvements, on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost).

13.5 Mortgagee's Right To Examine Books and Records

Institutional first Mortgagees shall have the right to examine the books and records of the Association and the right to require the submission of financial data concerning the Association, including annual audit reports, budgets, and operating statements as furnished to the Owners.

13.6 Priority in Distribution of Insurance and Condemnation Proceeds

No Owner, or any other party, shall have priority over any right of institutional first Mortgagees of Condominiums pursuant to their Mortgages in case of a distribution of Owners of insurance proceeds or condemnation awards for losses to or taking of Units or Common Area. Any provision to the contrary in this Declaration or in the Bylaws or other documents relating to the development is to such extent void. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected institutional first Mortgagees, naming the Mortgagees as their interests may appear.

13.7 Status of Amenities

All amenities (such as parking, recreation, and service areas) and Common Area shall be available for use by Owners, and all such amenities, with respect to which regular or special assessments for maintenance or other uses may be levied, shall constitute Common Area. All such amenities shall be owned by the Association free of encumbrances, except for any easements granted for public utilities or for other public purposes consistent with the intended use of such property by the Owners or by the Association.

13.8 Default Notice Requirement

If any Owner is in default under any provision of this Declaration or under any provision of the Articles, the Bylaws or the Association Rules, and the default is not cured within sixty (60) days after written notice to that Owner, the Association shall give to the Mortgagee of record of such Owner written notice of such default and of the fact that the sixty (60) day period has expired.

13.9 Payments by Mortgagees

Mortgagees of Condominiums may, jointly or severally, pay taxes or other charges which are in default and

which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area improvements or other insured property of the Association and, upon making any such payments, such Mortgagees shall be owed immediate reimbursement from the Association. This provision shall constitute an agreement by the Association for the express benefit of all Mortgagees and upon request of any Mortgagee the Association shall execute and deliver to such Mortgagee a separate written agreement embodying this provision.

13.10 Effect of Breach of Declaration on Mortgagee

No breach of any provision of this Declaration shall invalidate the lien of any Mortgage made in good faith and for value; but all of the covenants, conditions and restrictions shall be binding on any Owner whose title is derived through foreclosure sale, trustee's sale, or otherwise.

13.11 Mortgagee Need Not Cure Breach

No Mortgagee who acquires title to a Condominium, by foreclosure or by deed in lieu of foreclosure or by assignment in lieu of foreclosure, shall be obligated to cure any breach of this Declaration that is noncurable or of a type that is not practical or feasible to cure.

13.12 Status of Loan To Facilitate Resale

Any first Mortgage given to secure a loan to facilitate the resale of a Condominium after acquisition by foreclosure or by a deed in lieu of foreclosure or by an assignment in lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of Mortgages under this Declaration.

13.13 Right To Appear at Meetings

Because of its financial interest in the Project, any Mortgagee may appear (but cannot vote) at meetings of Owners and the Board to draw attention to violations of this Declaration that have not been corrected or that have been made the subject of remedial proceedings or assessments.

13.14 Right To Furnish Information

Any Mortgagee can furnish information to the Board concerning the status of any Mortgage.

13.15 Right of First Refusal Inapplicable to Mortgagee

No right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey the Owner's Condominium shall be granted to the Association without the written consent of any Mortgagee of the Condominium. Any right of first refusal or option to purchase a Condominium that may be granted to the Association (or other person, firm, or entity) shall not impair the rights of a first Mortgagee (i) to foreclose or take title to a Condominium pursuant to the remedies provided in the mortgage; or (ii) to accept a deed (or assignment) in lieu of foreclosure in the event of default under the mortgage; or (iii) to sell or lease a Condominium acquired by the Mortgagee.

13.16 Limitation on Term of Management Contract

Any agreement between the Association and Declarant pursuant to which the Declarant agrees to provide services, and any agreement for professional management by a manager, shall provide for termination by either party without cause or payment of a termination fee on thirty (30) days' written notice and shall have a maximum contract term of one (1) year, provided that the Association can renew any such contract on a year-to-year basis. If the Project is professionally managed, the Association shall not terminate professional management and assume self-management without the consent of sixty-seven percent (67%) of the voting rights of each class of Owners, or of all Owners if only one class exists, and of fifty-one percent (51%) of first Mortgagees.

13.17 Control if Mortgagee Protections Conflict With Other Provisions

In the event of any conflict between any of the provisions of Sections 13.1-13.16 and any other provisions of this Declaration, the provisions of Sections 13.1-13.16 shall control.

ARTICLE XIV

ARCHITECTURAL CONTROL

14.1 Provision for Architectural Approval

Except as to construction of improvements by Declarant in any phase of the Project, no building, fence, wall, or other structure shall be commenced, erected, or maintained on the Property; nor shall any exterior

addition or change or alteration in any such structures of the Property -- including, e.g., solar or heating systems; pools, spas, ponds, fountains; landscaping, stonework, or concrete work; related mechanical, plumbing, or electrical facilities; awnings, patio covers, and antennae -- be made until the plans and specifications showing the nature, kind, shape, materials, and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee provided for in Section 14.2. Whenever in this Declaration the prior consent or approval of the Association is required as a condition to any action by an Owner affecting any alterations, changes, additions, or modifications, the Association through the Board may delegate to the Architectural Committee the right and duty to grant or withhold such consent or approval. In the event the Architectural Committee or its designated representatives fail to approve or disapprove such design and location within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required, and this provision will be deemed to have been complied with in full.

14.2

Appointment of Architectural Committee

The Declarant shall appoint all of the original members of the Architectural Committee, consisting of not less than three (3) nor more than five (5) persons who need not be members of the Association, and any replacements for them. The number of members initially appointed shall constitute the number of authorized members of the Committee until increased or decreased by the vote or written consent of the holders of at least fifty-one percent (51%) of the voting rights of each class of members of the Association. The initial appointees (and any replacements) shall hold office until the first anniversary of the original issuance of a Final Subdivision Public Report by the California Commissioner of Real Estate. Thereafter, Declarant may appoint a majority of the members of the Architectural Committee, and any replacements for them, until ninety percent (90%) of the Condominiums have been sold and deeds to them recorded in favor of Owners or until the fifth anniversary of the original issuance of a Final Subdivision Public Report. After one (1) year from the date of the original issuance of a Final Subdivision Public Report, the Board shall have the power to appoint one member of the Architectural Committee, whose power shall continue until ninety percent (90%) of the Condominiums have been sold and deeds to them recorded in favor of Owners or until the fifth anniversary of the original issuance of a Final Subdivision Public Report. Thereafter the Board shall

have the power to appoint all of the members of the Architectural Committee. Members appointed to the Architectural Committee by the Board shall be members of the Association.

#### ARTICLE XV

##### AMENDMENT OF DECLARATION

15.1 Amendment Before Close of First Sale

Before the close of the first sale of a Condominium in the project to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any Mortgagee of record of an instrument amending or revoking the Declaration.

15.2 Amendment After Close of First Sale

After the close of the first sale of a Condominium in the Project to a purchaser other than Declarant, this Declaration may be amended or revoked in any respect by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of Owners, or, if a single class of Owners is then in effect, by the vote or written consent of not less than (i) seventy-five percent (75%) of all the votes and (ii) fifty-one percent (51%) of the votes excluding Declarant. However, if any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Owners in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Owners shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other person, firm, agency, or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the office of the County Recorder of the County.

15.3 Control if Amendment Provisions Conflict With Mortgagee Protection or Other Provisions

To the extent any provisions of Sections 15.1-15.6 conflict with the provisions of Sections 13.1-13.16 or any other provisions of this Declaration, except those contained in Section 15.4, the provisions of Sections 13.1-13.16 or the other provisions shall control.

15.4 Compliance With Business and Professions Code Section 11018.7

All amendments or revocations of this Declaration shall comply with all applicable provisions of California Business and Professions Code Section 11018.7.

15.5 Reliance on Amendments

Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

15.6 Provision That Amendments Conform With Mortgagee Requirements

It is the intent of Declarant that this Declaration and the Articles and Bylaws of the Association, and the Project in general, shall now and in the future meet all requirements necessary to purchase, guarantee, insure, or subsidize any mortgage of a Condominium in the Project by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Housing Administration, and the Veterans Administration. The Association and each Owner shall take any action or shall adopt any resolutions required by Declarant or any Mortgagee to conform this Declaration or the Project to the requirements of any of these entities or agencies.

ARTICLE XVI

GENERAL PROVISIONS

16.1 Headings

The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

16.2 Severability of Provisions

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions shall not invalidate any other

provisions.

16.3 Cumulative Remedies

Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver of the remedy.

16.4 Violations as Nuisance

Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies set forth, may be abated or enjoined by any Owner, any member of the Board, the manager, or the Association.

16.5 No Discriminatory Restrictions

No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing, or occupancy of his Unit on the basis of race, sex, marital status, national ancestry, color, or religion.

16.6 Owner's Access to Books

Any Owner may, at any reasonable time and upon reasonable notice to the Board or manager at his own expense, cause an audit or inspection to be made of the books and financial records of the Association. The Association shall make available to any prospective purchaser of a Condominium, any Owner of a Condominium, any first Mortgagee, and the Holders, Insurers, and Guarantors of a first Mortgage on any Condominium, current copies of the Declaration, the Articles of Incorporation, the Bylaws, rules governing the Condominium and all other books, records and financial statements of the Association.

16.7 Liberal Construction

The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision of the Declaration shall not constitute a waiver of the right to enforce the provision thereafter.

16.8 Notification of Sale

Concurrently with the consummation of the sale of any Condominium under circumstances where the transferee becomes an Owner of the Condominium, or within five (5) business days thereafter, the transferee shall

notify the Association in writing of such sale. Such notification shall set forth the name of the transferee and his Mortgagee and transferor, the common address of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Before the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board, or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to the transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Association. Notices shall be deemed received forty-eight (48) hours after mailing, if mailed to the transferee, or to his transferor, if the Association has received no notice of transfer as above provided, by certified mail, return receipt requested, at the mailing address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram or upon personal delivery to any occupant of a Condominium over the age of twelve (12) years.

16.9 Number; Gender

The singular shall include the plural and the plural the singular, unless the context requires the contrary; and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter, as the context requires.

16.10 Incorporation of Exhibits

All exhibits referred to are attached to this Declaration and incorporated by reference.

16.11 Easements Reserved and Granted

Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in a deed to any Condominium.

16.12 Binding Effect

This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors, and assigns of the Owners.

16.13 Litigation

In the event the Association, Declarant or any Owner shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, the prevailing party in such litigation shall be

entitled to costs of suit and such attorney's fees as the Court may adjudge reasonable and proper. The "prevailing party" shall be the party in whose favor a final judgment is entered.

16.14 Limitation of Restrictions on Declarant

Declarant is undertaking the work of construction of residential Condominiums and additional improvements upon the Condominium Property. The completion of that work, and the sale, rental or other disposal of said Condominiums is essential to the establishment of the Condominium Property as a residential community. In order that this work may be completed and the Condominium Property established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood to:

- (a) Prevent Declarant, its contractors or subcontractors from doing on the Condominium Property or in any Living Unit, Garage or Exclusive Use Area, whatever is reasonably necessary or advisable in connection with the completion of said work; or
- (b) Prevent Declarant or its representatives from constructing and maintaining on any part or parts of the Condominium Property, such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said Condominium Property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or
- (c) Prevent Declarant from conducting on any part of the Condominium Property its business of completing his work, and of establishing a plan of Condominium Property in the form of Condominiums by sale, lease or otherwise; or
- (d) Prevent Declarant from maintaining such sign or signs on any portion of the condominium Property as may be necessary for the sale, lease or disposition thereof; provided, however, that the maintenance of any such sign shall during the sales period set forth in Article IV Section 4.7 above not unreasonably interfere with the use by any Owner of his Living Unit, Garage or Exclusive Use Area.

So long as Declarant, its successors or assigns owns one or more of the Condominiums described herein,

Declarant, its successors or assigns shall be subject to the provisions of this Declaration. Declarant, in exercising its rights under this Section 16.14, shall not unreasonably interfere with the use of the Common Area by any Owner.

16.15 Enforcement

The Association and any Owner shall have the right to enforce by any proceedings at law or in equity, each covenant, condition, restriction and reservation now or hereafter imposed by the provisions of this Declaration. Each Owner shall have a right of action against the Association for any failure by the Association to comply with the provisions of this Declaration or of the Bylaws or Articles. Failure by the Association or any Owner to enforce any covenant, condition, restriction or reservation contained herein shall not be deemed a waiver of the right to do so thereafter.

**ARTICLE XVII**

**TERM OF DECLARATION**

17.1 Fixed Term

This Declaration shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from the date on which this Declaration is executed. After that time, this Declaration and all its covenants and other provisions shall be automatically extended for successive ten (10) year periods unless this Declaration is revoked by an instrument executed by Owners and their respective institutional first Mortgagees of not less than three-fourths (3/4) of the Condominiums in the development, and recorded in the office of the County Recorder of the County within one year prior to the end of the 50-year period or any succeeding 10-year period.

17.2 Execution

Declarant has executed this instrument as of \_\_\_\_\_  
January 31, 1986.

COUNTRY VIEW VILLAS - CAMERON PARK, A  
GENERAL PARTNERSHIP

By: HAMMOND AND SEEDS, INC.,  
a California corporation,  
General Partner

By: *George Hammond*  
George Hammond, President

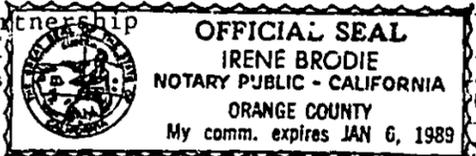
By: *Hugh Seeds*  
Hugh Seeds, Secretary

(ACKNOWLEDGEMENT)

STATE OF CALIFORNIA ss.  
COUNTY OF Orange  
On January 31, 1986 before me, the undersigned, a Notary Public in and for  
said State, personally appeared George Hammond and  
Hugh Seeds personally known to me (or proved to me on the basis  
of satisfactory evidence) to be the persons who executed the within instrument as  
President and Secretary, on behalf of HAMMOND AND SEEDS, INC.

the corporation therein named, and acknowledged to me that said  
corporation executed the within instrument pursuant to its by-  
laws or a resolution of its board of directors, said corporation being  
known to me to be one of the partners of COUNTRY VIEW  
VILLAS - CAMERON PARK, a General Partnership  
the partnership that executed the within instrument, and ack-  
nowledged to me that such corporation executed the same as  
such partner and that such partnership executed the same.

WITNESS my hand and official seal  
Signature *Irene Brodie*



(This area for official notarial seal)

3005 (6/82) - (Corporation as Partner of Partnership)  
First American Title Company

EXHIBIT "A"

Pursuant to Article III, 3.1 of this Declaration,  
this Exhibit is attached hereto and made a part  
hereof.

UNIT

FRACTIONAL INTEREST  
IN COMMON AREA

Units 1 to 40,  
inclusive

1/40th